

Monterey County

Board of Supervisors Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901



Meeting Agenda - Final

Tuesday, September 27, 2022

9:00 AM

<https://montereycty.zoom.us/j/224397747>

Board of Supervisors

Chair Supervisor Mary L. Adams - District 5

Vice Chair Supervisor Luis A. Alejo - District 1

Supervisor John M. Phillips - District 2

Supervisor Chris Lopez - District 3

Supervisor Wendy Root Askew - District 4

Important Notice Regarding COVID 19

Based on AB361 and recommendation of the Monterey County Health Officer, in order to minimize the spread of the COVID 19 virus, please do the following:

1. While the Board chambers remain open, you are strongly encouraged to observe the live stream of the Board of Supervisors meetings at <https://monterey.legistar.com/Calendar.aspx>, <http://www.mgtvonline.com/>, www.youtube.com/c/MontereyCountyTV or <https://www.facebook.com/MontereyCoInfo/>

If you attend the Board of Supervisors meeting in person, it is recommended to maintain appropriate social distancing, i.e., maintain a 6-foot distance between yourself and other individuals.

2. If you choose not to attend the Board of Supervisors meeting but desire to make general public comment, or comment on a specific item on the agenda, you may do so in two ways:

a. submit your comment via email by 5:00 p.m. on the Monday prior to the Board meeting. Please submit your comment to the Clerk of the Board at cob@co.monterey.ca.us. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Your comment will be placed into the record at the Board meeting.

b. you may participate through ZOOM. For ZOOM participation please join by computer audio at: <https://montereycty.zoom.us/j/224397747>

OR to participate by phone call any of these numbers below:

+1 669 900 6833 US (San Jose)
+1 346 248 7799 US (Houston)
+1 312 626 6799 US (Chicago)
+1 929 205 6099 US (New York)
+1 253 215 8782 US
+1 301 715 8592 US

Enter this Meeting ID number: 224397747 when prompted. Please note there is no Participant Code, you will just hit # again after the recording prompts you.

You will be placed in the meeting as an attendee; when you are ready to make a public comment if joined by computer audio please Raise your Hand; and by phone please push *9 on your keypad.

Aviso importante sobre COVID 19

Según AB361 y la recomendación del Oficial de Salud del Condado de Monterey, para minimizar la propagación del virus COVID 19, haga lo siguiente:

1. Mientras las cámaras de la Junta permanezcan abiertas, se le recomienda encarecidamente que observe la transmisión en vivo de las reuniones de la Junta de Supervisores en <https://monterey.legistar.com/Calendar.aspx>, <http://www.mgtvonline.com/>, www.youtube.com/c/MontereyCountyTV o <https://www.facebook.com/MontereyCoInfo/>

Si asiste a la reunión de la Junta de Supervisores en persona, se recomienda mantener un distanciamiento social adecuado, es decir, mantener una distancia de 6 pies entre usted y otras personas.

2. Si elige no asistir a la reunión de la Junta de Supervisores pero desea hacer comentarios del público en general, o comentar sobre un tema específico de la agenda, puede hacerlo de dos maneras:

Envíe su comentario por correo electrónico antes de las 5:00 p.m. el lunes anterior a la reunión de la Junta. Envíe su comentario al Secretario de la Junta a cob@co.monterey.ca.us. En un esfuerzo por ayudar al Secretario a identificar el ítem de la agenda relacionado con su comentario público, por favor indique en la Línea de Asunto, el cuerpo de la reunión (es decir, la Agenda de la Junta de Supervisores) y el número del ítem (es decir, el Ítem No. 10). Su comentario se colocará en el registro en la reunión de la Junta.

B. puede participar a través de ZOOM. Para participar en ZOOM, únase por audio de computadora en: <https://montereycty.zoom.us/j/224397747>

O para participar por teléfono llame a cualquiera de los siguientes números:

+1669900 6833 EE. UU. (San José)

+ 1346248 7799 EE. UU. (Houston)

+1312626 6799 EE. UU. (Chicago)

+1929205 6099 EE. UU. (Nueva York)

+1 253215 8782 EE. UU.

+1 301 715 8592 EE. UU.

Ingrese este número de identificación de la reunión: 224397747 cuando se le solicite. Tenga en

cuenta que no hay un código de participante, simplemente presionará # nuevamente después de que la grabación le indique.

Se le colocará en la reunión como asistente; cuando esté listo para hacer un comentario público si se le une el audio de la computadora, levante la mano; y por teléfono, presione * 9 en su teclado.

The Board of Supervisors welcomes you to its meetings, which are regularly scheduled each Tuesday. Your interest is encouraged and appreciated. Meetings are held in the Board Chambers located on the first floor of the Monterey County Government Center, 168 W. Alisal St., Salinas, CA 93901.

As a courtesy to others, please turn off all cell phones and pagers prior to entering the Board Chambers.

ALTERNATE AGENDA FORMATS: If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 USC Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Individuals with a disability requiring a modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may make these requests to the Clerk of the Board Office.

CEREMONIAL/APPOINTMENTS/OTHER BOARD MATTERS: These items may include significant financial and administrative actions, and items of special interest, usually approved by majority vote for each program. The regular calendar also includes "Scheduled Items," which are noticed hearings and public hearings.

CONSENT CALENDAR: These matters include routine financial and administrative actions, appear in the supplemental section by program areas, and are usually approved by majority vote.

TO ADDRESS THE BOARD ON A MATTER ON THE AGENDA: Walk to the podium and wait for recognition by the Chair. In order that all interested parties have an opportunity to speak, please be brief and limit your comments to the specific subject under discussion. Time limitations shall be at the discretion of the Chair, with equal time allocated to opposing sides of an issue insofar as possible. Allocated time may not be reserved or granted to others, except as permitted by the Chair. On matters for which a public hearing is required, please note that a court challenge to the Board's action may be limited to only those issues raised at the public hearing or in correspondence delivered to the Board at or before the public hearing.

TO ADDRESS THE BOARD DURING PUBLIC COMMENT: Members of the public may address comments to the Board concerning each agenda item and may comment when the Chair calls for general public comment for items that are not on the day's agenda. The timing of public comment shall be at the discretion of the Chair.

DOCUMENT DISTRIBUTION: Documents related to agenda items that are distributed to the Board less than 72 hours prior to the meeting shall be available for public inspection at the Clerk of the Board Office, 168 W. Alisal Street, 1st Floor, Salinas, CA. Documents distributed to the Board at the meeting by County staff will be available at the meeting; documents distributed to the Board by members of the public shall be made available after the meeting.

INTERPRETATION SERVICE POLICY: The Monterey County Board of Supervisors invites and encourages the participation of Monterey County residents at its meetings. If you require the assistance of an interpreter, please contact the Clerk of the Board located in the Monterey County Government Center, 168 W. Alisal St., Salinas - or by phone at (831) 755-5066. The Clerk will make every effort to accommodate requests for interpreter assistance. Requests should be made as soon as possible, and at a minimum 24 hours in advance of any meeting of the Board of Supervisors.

La Cámara de Supervisores del Condado de Monterey invita y apoya la participación de los residentes del Condado de Monterey en sus reuniones. Si usted requiere la asistencia de un interprete, por favor comuníquese con la oficina de la Asistente de la Cámara de Supervisores localizada en el Centro de Gobierno del Condado de Monterey, (Monterey County Government Center), 168 W. Alisal, Salinas – o por teléfono al (831) 755-5066. La Asistente hará el esfuerzo para acomodar los pedidos de asistencia de un interprete. Los pedidos se deberán hacer lo mas pronto posible, y a lo mínimo 24 horas de anticipo de cualquier reunión de la Cámara de Supervisores.

All documents submitted by the public must have no less than ten (10) copies.

The Clerk of the Board of Supervisors must receive all materials for the agenda packet by noon on the Tuesday one week prior to the Tuesday Board meeting.

Any agenda related writings or documents distributed to members of the County of Monterey Board of Supervisors regarding any open session item on this agenda will be made available for public inspection in the Clerk of the Board's Office located at 168 W. Alisal St., 1st Floor, Salinas, California. during normal business hours and in the Board Chambers on the day of the Board Meeting, pursuant to Government Code §54957.5

HELPFUL INFORMATION/INFORMACION UTIL

Sign Up For Alerts on items you may be interested in to keep informed and up to date on the Monterey County Board of Supervisors

To create an Alert please Sign Up and follow the User Guide to create alerts for calendars, meeting details, agenda items and item details at the following link:

<https://monterey.legistar.com/Default.aspx>

If assistance is needed please contact our office at the following email: cob@co.monterey.ca.us

Regístrese para recibir alertas sobre artículos que le pueden interesar para mantenerse informado y actualizado sobre la Junta de Supervisores del Condado de Monterey

Para crear una alerta, regístrese y siga la Guía del usuario para crear alertas para calendarios, detalles de reuniones, elementos de agenda y detalles de elementos en el siguiente enlace:

<https://monterey.legistar.com/Default.aspx>

Si necesita ayuda, comuníquese con nuestra oficina al siguiente correo electrónico: cob@co.monterey.ca.us

NOTE: All agenda titles related to numbered agenda items are live web links. Click on the title to be directed to the corresponding Board Report.

PUBLIC COMMENT: Members of the public may address comments to the Board concerning each agenda item. The timing of public comment shall be at the discretion of the Chair.

Pursuant to AB361 some or all Supervisors may participate in the meeting by telephone or video conference.

9:00 A.M. - Call to Order

Roll Call

Additions and Corrections for Closed Session by County Counsel

Closed Session

1. Closed Session under Government Code section 54950, relating to the following items:
 - a. Pursuant to Government Code section 54956.9(d)(1), the Board will confer with legal counsel regarding existing litigation:
(1) Linda Chavarria (Workers' Compensation Appeals Board No. ADJ9891595)
 - b. Pursuant to Government Code section 54956.9(d)(2), the Board will confer with legal counsel regarding one matter of significant exposure to litigation.

Public Comments for Closed Session

The Board Recesses for Closed Session Agenda Items

10:30 A.M. - Reconvene on Public Agenda Items

Roll Call

Pledge of Allegiance

Additions and Corrections by Clerk

Ceremonial Resolutions

2. Adopt a resolution commending Gary Giboney, Chief Deputy Auditor-Controller, Office of the Auditor-Controller, for his dedicated service of 22 years to the County of Monterey. (Supervisor Adams)

Attachments: [Ceremonial Resolution - Gary Giboney](#)

3. Adopt a resolution honoring Glenn Sakasegawa for his 17 years of Public Service in Monterey County. (Supervisor Adams)

Attachments: [Ceremonial Resolution - Glenn Sakasegawa](#)

4. Adopt a resolution recognizing Bruce and Linda Taylor as the Community Foundation for Monterey County's 2022 Distinguished Trustee Award Recipients. (Supervisor Adams)

Attachments: [Ceremonial Resolution - Bruce and Linda Taylor](#)

Appointments

5. Appoint Jeffrey Andrews to the Carmel Valley Road Advisory Committee as an Alternate for Business Representative with a term ending on September 20, 2025. (Nominated By District 5, Supervisor Adams)

Attachments: [Notification to Clerk of Appt - Jeffrey Andrews](#)
 [Resume - Jeffrey Andrews](#)

6. Reappoint Katie Coburn to the Carmel Valley Road Advisory Committee as a Primary Representative of Mouth-of-the-Valley with a term expiring on June 30, 2025. (Nominated By District 5, Supervisor Adams)

Attachments: [Notification to Clerk of Appt - Katie Coburn](#)
 [Statement of Interest CVRAC - Katie Coburn](#)

7. Appoint MaryBeth Murray to the Commission on the Status of Women as a District 5 Representative to fill an unexpired term ending on February 1, 2023. (Nominated By District 5, Supervisor Adams)

Attachments: [Notification to Clerk of Appt - MaryBeth Murray](#)
 [Resume - MaryBeth Murray](#)

8. Appoint Suzanne Cole to the CSA 25 to fill an unexpired term ending on February 9, 2024. (Nominated By District 5, Supervisor Adams)

Attachments: [Notification to Clerk of Appt - Suzanne Cole](#)
 [Resume - Suzanne Cole](#)

9. Reappoint Karen Araujo to the Commission on the Status of Women as a Primary Representative with a term ending on February 1, 2023. (Nominated By District 4, Supervisor Askew)

Attachments: [Notification to Clerk of Appt - Karen Araujo](#)
[Roles, Membership, and Recognition - Karen Araujo](#)

10. Reappoint Cesar Lara to the Monterey County Workforce Development Board as a Business Organization Representative with a term ending on July 27, 2025. (Nominated By The Monterey County Workforce Development Board)

Attachments: [Notification to Clerk of Appt - Cesar Lara](#)
[Bio - Cesar Lara](#)

11. Reappoint Steve MacArthur to the Monterey County Workforce Development Board as a Business Organization Representative with a term ending on October 19, 2025. (Nominated By The Monterey County Workforce Development Board)

Attachments: [Notification to Clerk of Appt - Steve MacArthur](#)
[Bio - Steve MacArthur](#)

12. Reappoint Erik Cushman to the Monterey County Workforce Development Board as Business Organization Representative with a term ending on December 11, 2022. (Nominated By The Monterey County Workforce Development Board)

Attachments: [Notification to Clerk of Appt - Erik Cushman](#)
[Bio - Erik Cushman](#)

13. Appoint Germaine Esquivel to the Community Action Commission as a Low-Income Representative with a term ending September 27, 2025. (Nominated By District 4, Supervisor Askew)

Attachments: [Notification to Clerk of Appt - Germaine Esquivel](#)
[Resume - Germanine Esquivel](#)
[Letter from LULAC - Germaine Esquivel](#)
[Biography - Germaine Esquivel](#)

Approval of Consent Calendar – (See Supplemental Sheet)

14. See Supplemental Sheet

General Public Comments

15. General Public Comments

This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board of Supervisors. Board members may respond briefly to the statement made or questions posed. They may ask a question for clarification;

make a referral to staff for factual information or request staff to report back to the Board at a future meeting.

Scheduled Matters

16. Adopt a Resolution to:

- a. Authorize the reallocation of unspent American Rescue Plan Act of 2021 (ARPA) funds of \$1,178,797 to the Pajaro County Sanitation District;
- b. Authorize and direct the Auditor-Controller to amend the Fiscal Year (FY) 2022-23 Adopted Budget for the General Fund, Fund 001, Other Financing Uses Appropriation Unit CAO017, to increase appropriations by \$1,320,603, where the financing source is Cannabis Tax Assignment (001-3132) (4/5th vote required);
- c. Authorize and direct the Auditor-Controller to amend the FY 2022-23 Pajaro County Sanitation District Adopted Budget, Fund 151, Appropriation Unit PFP047, to increase appropriations by \$2,499,400, financed by an increase in ARPA revenues of \$1,178,797 and an operating transfer in of \$1,320,603 from General Fund, Fund 001, Other Financing Uses Appropriation Unit CAO017 to fund projected budget deficiency (4/5th vote required); and
- d. Authorize and direct the Auditor-Controller to transfer \$1,320,603 for the FY 2022-23 from General Fund, Fund 001, Other Financing Uses CAO017, to Pajaro County Sanitation District, Fund 151, Appropriation Unit PFP047, where General Fund Other Financing Uses has sufficient appropriations available to fund the transfer (4/5ths vote required).

Attachments:

[Board Report](#)

[Attachment A - PCSD Map](#)

[Attachment B - Rate Study Schedule](#)

[Attachment C - Financial Summary](#)

[Attachment D - Resolution](#)

12:00 P.M. - Recess to Lunch - Stairwell Mural Project Ribbon Cutting Event

1:30 P.M. - Reconvene

Roll Call

Scheduled Matters

- 17.**
- a. Conduct a public hearing on Urban County Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) for FY21/22;
 - b. Consider the CAPER for FY21/22;
 - c. Consider authorizing the Director of Housing and Community Development to submit the CAPER to the U.S. Department of Housing and Urban Development (HUD);
 - d. Consider authorizing the Director of Housing and Community Development to make minor changes to the CAPER as needed in response to comments from HUD;
 - e. Approve the Urban County CDBG CAPER for FY21/22 for submittal to the U.S. Department of Housing and Urban Development (HUD); and,

- f. Authorize the Director of Housing and Community Development to make minor changes to the CAPER as needed or in response to comments from HUD.

Attachments: [Board Report](#)
 [Attachment A-Draft Consolidated Ann Perf and Eval Report for FY2021-22](#)

18. a. Approve Monterey County Communications & Public Relations Guidelines pursuant to the County Media Policy (Policy Number G-145 of the Board Policy Manual)
b. Provide direction to staff as appropriate.

Attachments: [Board Report](#)
 [Communications Public Relations Handbook - Design Edit 1](#)

19. Conduct a hearing to consider:
- a. Finding that the abandonment of the Official Plan Lines of the portion of Rio Road between the two segments of Rio Road currently constructed, being approximately that portion from Engineer's Station 6+77.8 to 39+72.02, as said Official Plan Lines and said Stations are shown on map filed in the Office of the County Recorder in Volume 2 of Official Plan Lines, at Page 55, is in conformity with Policy CV-2.19 of the Carmel Valley Master Plan, a part of the Monterey County General Plan;
 - b. Adoption of an ordinance amending Ordinance 499, being the Streets and Highways Plan of Monterey County, deleting a portion of Section 3ww and Section 8ww of the Official Plan Lines of the Rio Road Extension; and
 - c. Adoption of a resolution to rename that portion of Rio Road northerly of Engineer's Station 39+72.02 to Village Park Road.

Attachments: [Board Report](#)
 [Attachment A – Ordinance No. 499](#)
 [Attachment B – Ordinance No. 1693](#)
 [Attachment C – Volume 2 of Official Plan Lines, Page 55](#)
 [Attachment D – Approved Tentative Map RCV Subdivision](#)
 [Attachment E – Emergency Communications Memo](#)
 [Attachment F – Ordinance No. 5342](#)
 [Attachment G – Ordinance No.1241 w/amendment](#)
 [Attachment H – Draft Ordinance amending Ordinance No. 499](#)
 [Attachment I – Draft Resolution](#)

20. Consider making appointments to the Primary and Alternate Public Member Director positions on the Board of Directors of the Salinas Valley Basin Groundwater Sustainability Agency ("SVBGSA") for terms commencing July 1, 2022, through June 30, 2025.

Attachments: [Board Report](#)
 [Application Chapin](#)
 [Application Rodoni](#)
 [Draft Resolution](#)

Other Board Matters

County Administrative Officer Comments

21. County Administrative Officer Comments

New Referrals

22. New Referrals

Attachments: [Board Referral Matrix 9-27-22](#)
 [2022.20 \(Lopez\) Cannabis Local Authority](#)
 [2022.21 \(Alejo\) Clerk of the Board of Supervisors Budget](#)
 [Augmentation for Resolutions](#)
 [2022.22 \(Alejo\) East Salinas District 1 Office](#)

Referral Responses

23. Receive a preliminary analysis report in response to Board Referral No. 2022.17 seeking the Elections staff bring forward recommendations to possibly create a fee schedule for candidates to request and plan for recounts when needed.

Attachments: [Board Report](#)
 [Board Referral No. 2022.17](#)
 [PowerPoint - Board Referral No. 2022.17 Elections Recounts](#)

24. a. Receive an oral report update to **Board Referral No. 2022.06** which sought an increase in funding allocated to the Virus Integrated Distribution of Aid (VIDA) to maintain operations through December 31, 2022; and
 b. Provide direction to staff.

Attachments: [Board Report](#)
 [PPT Presentation](#)
 [Board Referral No. 2022.06](#)

Board Comments

25. Board Comments

Read Out from Closed Session by County Counsel

Adjournment

Supplemental Sheet, Consent Calendar**Natividad Medical Center**

26. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 3 to the agreement with Huffmaster Crisis Response, Inc. for nurse and allied professional staffing services in the event of an emergent staffing crisis at NMC, to add \$5,000,000 for a revised total agreement amount not to exceed \$5,901,988, until the conclusion of the staffing need.

Attachments: [Board Report](#)
 [Huffmaster Amendment 3](#)
 [Huffmaster Amendment 2](#)
 [Huffmaster Amendment 1](#)
 [HuffMaster Agreement](#)

27. a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute a Hospital Participation Agreement (“Agreement”) with American College of Surgeons (ACS) for participation in the National Surgical Quality Improvement Program (“ACS NSQIP”), for the term of October 1, 2022 through September 30, 2023, and for a total agreement amount of \$14,000.
b. Approve the NMC Chief Executive Officer’s recommendation to accept non-standard indemnification, insurance, no warranty, limitations on liability, and governing laws within the agreement.

Attachments: [Board Report](#)
 [American College of Surgeons Participation Agreement NSQIP](#)

28. a. Authorize Chief Executive Officer (CEO) for Natividad or his designee to execute the Second Amendment to the Professional and Call Coverage Services Agreement with Richard Moore M.D., Inc. to provide general and critical care surgery services at NMC extending the term by twenty-four months (October 1, 2022 to September 30, 2024) for a revised full agreement term of October 1, 2018 to September 30, 2024, and adding \$300,000 for a revised not to exceed amount of \$800,000 in the aggregate; and
b. Authorize the CEO for Natividad to sign up to three (3) future amendments to this agreement where the total amendments do not significantly change the scope of work and do not cause an increase of more than ten percent 10% (\$50,000) of the original contract amount.

Attachments: [Board Report](#)
 [Richard Moore MD Amendment 2](#)
 [Richard Moore MD Amendment 1](#)
 [Richard Moore M.D. Agreement](#)

Health Department

29. Adopt a Resolution to:

Amend Article I.b. - Public Health Bureau of the Monterey County Master Fee Resolution effective November 1, 2022, to adjust fees pursuant to the attached Fee Schedule relating to services provided by the Health Department's Administration and Public Health Bureaus - Sexual Assault Response Team (SART) Fee Schedule (Penal Code Section 13823.95) and Research/Evaluation and Information Technology Fee Schedule.

Attachments: [Board Report](#)
 [Resolution Amendment](#)
 [Resolution Amendment](#)
 [Proposed Article I.b Fee Schedule](#)
 [Proposed Article I.b Fee Schedule - \(strike through\)](#)
 [Fee Schedule - Backup Documentation - FY 2022-23- Research -](#)
 [Evaluation and Information Technology 29Aug2022](#)
 [Fee Schedule - Backup Documentation - FY 2022-23- SART](#)
 [29Aug2022](#)
 [Board Order RES 19-110 & Resolution 19-301](#)

30. Approve and authorize the Director of Health or Assistant Director of Health to execute an Operational Agreement between Monterey County Health Department's Sexual Assault Response Team (SART) and Monterey County Rape Crisis Center (MCRCC), agreeing to work together toward the mutual goal of providing maximum available assistance for crime victims residing in Monterey County, for the term October 1, 2022 through September 30, 2025.

Attachments: [Board Report](#)
 [Agreement](#)

31. a. Approve and authorize the Director of Health or the Assistant Director of Health to execute a Student Placement Agreement between the County of Monterey and the University of San Francisco for the term October 1, 2022 to May 12, 2023 for the provision of Student Internship; and
b. Approve the recommendation of Director of Health to accept all non-standard provisions in Agreement; and
c. Approve the Director of Health or the Assistant Director of Health to approve up to three (3) future Amendments that do not significantly alter the scope of services.

Attachments: [Board Report](#)
 [Agreement](#)

Department of Social Services

32. a. Approve and authorize the Director or Assistant Director of the Department of Social Services to sign an agreement with the County of Santa Cruz Human Services Department, allowing them to use

Monterey County's CHERISH Receiving Center for the temporary placement of children removed from their homes, for the term of October 1, 2022 to September 30, 2025, where the County of Santa Cruz will reimburse Monterey County for the placements in an amount not to exceed \$168,510; and b. Authorize the Director or Assistant Director of the Department of Social Services to sign up to three amendments to this agreement that do not encompass payment by Monterey County or significantly change the scope of work.

Attachments: [Board Report](#)
 [Agreement](#)

General Government

33. a. Approve and authorize the Executive Director of the Monterey County Workforce Development Board (WDB) to execute an Agreement with Arbor E&T, LLC, doing business as Equus Workforce Solutions, in an amount not to exceed \$125,000, to provide WIOA One Stop Operator services to the WDB retroactive to July 1, 2022, for the period of July 1, 2022, through June 30, 2023; and b. Approve and authorize the Executive Director of the WDB to execute up to three (3) future amendments of one (1) year each, subject to County Counsel review and approval by the Board of Supervisors, to extend the Agreement on substantially the same terms

Attachments: [Board Report](#)
 [2022-23 Arbor E&T One Stop Operator Services Agreement](#)

34. a. Approve and authorize the Chief Information Officer to execute retroactively September 1, 2022 an Amendment No. 1 to a non-standard License Agreement with American Tower, LLC for the Next Generation Radio System (NGEN) - Table Mountain site extending the agreement for an additional five (5) years to August 31, 2027; and b. Accept non-standard provisions as recommended by the Chief Information Officer; and c. Authorize the Chief Information Officer or designee to execute up to two (2) future amendments, subject to County Counsel review, to extend the non-standard License Agreement term for five (5) additional years per amendment and to allow for a four percent (4%) annual increase per year provided the amendments do not significantly change the scope of work and do not alter the non-standard terms of the License Agreement.

Attachments: [Board Report](#)
 [Original Agreement](#)
 [Amendment No. 1](#)

35. Adopt a resolution to amend Article XV of the Monterey County Master Fee Resolution, effective October 25, 2022, authorizing new fees and adjusting existing fees for Treasurer-Tax Collector services and enforcement requirements.

Attachments: [Board Report](#)
[20220927_TTC_Article_XV_Fees_Effective_20221025_Redline_AttA](#)
[20220927TTC_Article_XV_Fees_Effective_20221025_AttB](#)
[20220927_TTC_Article_XV_Fees_Effective_20221025_AttC_Resolution](#)
[20220927_TTC_Article_XV_Fees_Effective_20221015_ATTD](#)

36. Receive a report that provides periodic updates on Cannabis Program performance indicators.

Attachments: [Board Report](#)
[A. Cannabis Program Performance Indicators as of September 2022](#)

37. Adopt a Resolution to:
- a. Amend the County Counsel's Office - Budget Unit 1210-8407-Fund 001 -Appropriation Unit COU002 to reallocate one (1) Finance Manager I to one (1) Finance Manager II as indicated in Attachment A; and
 - b. Direct the County Administrative Office to incorporate the position changes in the FY 2022-23 Adopted Budget.

Attachments: [Board Report](#)
[ATTACHMENT A](#)

38. Approve the Board of Supervisors of the Monterey County Draft Action Meeting Minutes for the following meeting date: Tuesday, September 20, 2022.

Attachments: [DRAFT BOS Minutes 9-20-2022](#)

Housing and Community Development

39. a. Approve retroactively a Renewal and Amendment No. 9 to Agreement A-12442 with Denise Duffy & Associates, Inc., (CONTRACTOR) to extend the term of the Agreement seventeen (17) months to December 31, 2023, with a retroactive start date of July 1, 2022 for the Carmel Lagoon Project (REF 120051);
- b. Approve redistribution of funds from Task 8.7, Additional Services, in the amount of \$5,242 to Task 8.4, Additional Technical Studies, subtasks 8.4.1 and 8.4.4 in the amounts of \$1,693 and \$3,549, respectively; and
- c. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute: 1) Renewal and Amendment No. 9 to Professional Services Agreement No. A-12442 and 2) future amendments to Professional Services Agreement A-12442 to extend the term beyond the original term authorized in Request for Proposals #2012-CRL-1 where the amendments do not significantly alter the scope of work or increase the amount by more than 10%, subject to County Counsel approval.

- Attachments:** [Board Report](#)
 [Attachment 1 – Renewal and Amendment No. 9](#)
 [Attachment 2 – Amendment No. 8](#)
 [Attachment 3 – Amendment No. 7](#)
 [Attachment 4 – Amendment No. 6](#)
 [Attachment 5 – Amendment No. 5](#)
 [Attachment 6 – Amendment No. 4](#)
 [Attachment 7 – Amendment No. 3](#)
 [Attachment 8 – Amendment No. 2](#)
 [Attachment 9 – Amendment No. 1](#)
 [Attachment 10 – Agreement](#)

40. REF220004 - PROFESSIONAL SERVICES AGREEMENT FOR GENERAL PLAN ELEMENTS UPDATES

- a. Approve a Professional Services Agreement with Harris & Associates, Inc., to provide services to update the Housing Element, Safety Element, create the Environmental Justice Element, and prepare an environmental study for the not to exceed amount of \$967,520 and for a term October 1, 2022 to September 30, 2025; and
- b. Authorize the Contracts/Purchasing Officer of Contracts/Purchasing Supervisor to execute the Professional Services Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount by more than ten percent (10%), subject to review and approval by County Counsel.

- Attachments:** [Board Report](#)
 [Attachment 1 – PSA with Harris & Associates, Inc.](#)
 [Attachment 2 – RFP #10832](#)

- 41. a.** Approve Amendment No.7 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers (Whitson) to include additional services associated with the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, to increase the not-to-exceed amount by \$310,139, for a total amount not to exceed \$2,202,228; and
- b.** Authorize the Housing and Community Development Director to execute Amendment No. 7 to Professional Services Agreement No. A-12775 with Whitson, and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amount by more than ten percent (10%) subject to approval by County Counsel.

- Attachments:** [Board Report](#)
 [Attachment A - Summary of DDA and Whitson PSAs](#)
 [Attachment B - Amendment No. 7 to Whitson PSA](#)
 [Attachment C - Amendment No. 6 to Whitson PSA](#)
 [Attachment D - Amendment 5 to Whitson PSA](#)
 [Attachment E - Amendment 4 to Whitson PSA](#)
 [Attachment F - Amendment 3 to Whitson PSA](#)
 [Attachment G - Amendment 2 to Whitson PSA](#)
 [Attachment H - Amendment 1 to Whitson PSA](#)

Public Works, Facilities and Parks

- 42.** Approve and authorize the Director of Public Works, Facilities and Parks to execute and record a thirty (30) year Deed Restriction for parcels at Toro Park (Assessor's Parcel Number: 161-011-071) and Jacks Peak Park (Assessor's Parcel Number: 103-071-013), as required for projects funded by the California Department of Parks and Recreation Per Capita Program.

- Attachments:** [Board Report](#)
 [Attachment A – Draft Deed Restriction for Toro Park](#)
 [Attachment B – Draft Deed Restriction for Jacks Peak Park](#)
 [Attachment C – Per Capita Program Procedural Guide](#)



Monterey County

Item No.1

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: CS 22-038

September 27, 2022

Introduced: 9/21/2022

Current Status: Agenda Ready

Version: 1

Matter Type: Closed Session

Closed Session under Government Code section 54950, relating to the following items:

a. Pursuant to Government Code section 54956.9(d)(1), the Board will confer with legal counsel regarding existing litigation:

(1) Linda Chavarria (Workers' Compensation Appeals Board No. ADJ9891595)

b. Pursuant to Government Code section 54956.9(d)(2), the Board will confer with legal counsel regarding one matter of significant exposure to litigation.



Monterey County

Item No.2

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: CR 22-130

September 27, 2022

Introduced: 9/14/2022

Current Status: Ceremonial Resolution

Version: 1

Matter Type: Ceremonial Resolution

Adopt a resolution commending Gary Giboney, Chief Deputy Auditor-Controller, Office of the Auditor-Controller, for his dedicated service of 22 years to the County of Monterey. (Supervisor Adams)

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

Resolution No.

Adopt a resolution commending **Gary Giboney**, *Chief Deputy*)
Auditor-Controller, Office of the Auditor-Controller, for his)
dedicated service of 22 years to the County of Monterey.)

WHEREAS, **Gary Giboney** received a Bachelor's degree in Accounting from California State University in 1980, and a Master's in Business Administration in Finance from University of Chicago in 1985; and,

WHEREAS, **Gary Giboney** received his Certified Public Accountant license in 1983, Certified Management Analyst license in 1985, Certified Financial Manager license in 1997, and Certified Government Management Accountant license in 2013; and,

WHEREAS, **Gary Giboney** began his career with the County in July, 2000 as a Chief Deputy-Auditor-Controller; and,

WHEREAS, **Gary Giboney** oversaw the General Accounting Division for a period of time prior to his appointment as a Disbursements Chief Deputy, and lead the issuance of the first ever Annual Comprehensive Financial Report of the County of Monterey, selected and implemented fixed asset software and conducted the first fixed asset inventory of the County, and helped obtain the first unmodified audit opinion for the County's financial statements; and,

WHEREAS, **Gary Giboney** for over fifteen years has been serving as the Chief Deputy Auditor-Controller, overseeing and leading the operations of the Disbursements Division of the Auditor-Controller's Office, which includes the Property Tax, Accounts Payable and Payroll sections. He has been an invaluable asset and resource to the County Departments and the Auditor-Controller's Office. He undertook a significant role in the selection and implementation of the first ERP system for the County of Monterey. He has organized the first Government Tax Seminar for the County of Monterey; and,

WHEREAS, **Gary Giboney** has decided to retire and deservedly spend more time with his family, wife Jacqueline Zhang, and sons Christopher Keith Giboney, Fire Captain at County of Sacramento and Princeton Du-Son, a student.

WHEREAS, **Gary Giboney**, has gained the respect of County peers and has chosen to retire after twenty-two years of service, let it be known that his dedication, service, and support will be remembered by those who worked with him over the years.

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Supervisors of Monterey County, on behalf of the County and all residents thereof, hereby acknowledges, commends, and thanks **Gary Giboney** for his years of exemplary public service and wish him success, good health, and happiness in all future endeavors.

PASSED AND ADOPTED on this ____ day of December 2021, upon motion of Supervisor _____, seconded by Supervisor _____ by the following vote, to-

wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, 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 resolution of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book for the meeting on September ___, 2022.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy



Monterey County

Item No.3

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: CR 22-129

September 27, 2022

Introduced: 9/14/2022

Current Status: Ceremonial Resolution

Version: 1

Matter Type: Ceremonial Resolution

Adopt a resolution honoring Glenn Sakasegawa for his 17 years of Public Service in Monterey County. (Supervisor Adams)

ABSENT:

I, Valerie Ralph, 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 ____ for the meeting on _____.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California



Monterey County

Item No.4

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: CR 22-137

September 27, 2022

Introduced: 9/19/2022

Current Status: Ceremonial Resolution

Version: 1

Matter Type: Ceremonial Resolution

Adopt a resolution recognizing Bruce and Linda Taylor as the Community Foundation for Monterey County's 2022 Distinguished Trustee Award Recipients. (Supervisor Adams)

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

Resolution No.:

Adopt a resolution recognizing **Bruce and Linda Taylor** as the Community Foundation for Monterey County's 2022 Distinguished Trustee Award Recipients

WHEREAS, each year the Community Foundation for Monterey County presents the Distinguished Trustee Award to someone who has demonstrated philanthropic leadership in our region and will present the 2022 Distinguished Trustee Award to **Bruce and Linda Taylor** on October 5, 2022; and

WHEREAS, Bruce Taylor and Linda Taylor, are long-time residents of Salinas, California and known for their generosity and leadership in giving back, both personally and through the Taylor Farms company to countless nonprofits working for healthy, safe, vibrant communities; and

WHEREAS, **Bruce Taylor** and partners founded Taylor Farms in 1995 which has become the leading North American producer of salads and healthy fresh foods employing 24,000 people; and

WHEREAS, the **Taylors** support opportunities for local students by giving generously to educational institutions such as California State University Monterey Bay; Hartnell College and Palma and Notre Dame High Schools; and

WHEREAS, **Taylor Farms** has invested in their employees and their families by creating the Taylor Farms Scholarship Program which has awarded \$3.1 million in 216 four-year scholarships in its first ten years to children of employees; and

WHEREAS, the Taylors have invested in youth through Boys and Girls Clubs of Monterey County, First Tee Monterey County, Digital Nest and the Rancho Cielo Ted Taylor Vocational Center and many more; and

WHEREAS, the Taylors invested in Salinas by building the Taylor Farms corporate headquarters downtown in 2015, revitalizing Oldtown and creating a thriving Salinas City Center; and

WHEREAS, Bruce and Linda Taylor have received many awards for their philanthropy and community service and now the 2022 CFMC Distinguished Trustee Award and strengthened our community through their philanthropic support of many causes throughout Monterey County

NOW, THEREFORE BE IT RESOLVED, that the Monterey County Board of Supervisors, on behalf of the County and all residents thereof, recognizes **Bruce and Linda Taylor** as the Community Foundation for Monterey County 2022 Distinguished Trustee Award Recipients and wishes them continued success in all of their future endeavors.

PASSED AND ADOPTED this _____ day of _____, 2022, by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Valeria Ralph, 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 _____ for the meeting on _____, 2022.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California.

By _____
Deputy



Monterey County

Item No.5

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: APP 22-183

September 27, 2022

Introduced: 9/13/2022

Current Status: Appointment

Version: 2

Matter Type: Appointment

Appoint Jeffrey Andrews to the Carmel Valley Road Advisory Committee as an Alternate for Business Representative with a term ending on September 20, 2025. (Nominated By District 5, Supervisor Adams)

(FOR CLERK OF THE BOARD USE ONLY)

(FOR COUNTY CLERK USE ONLY)

OFFICIAL APPOINTMENT **FILE ID NO.**

[LEGISTAR ID NO.]

BOARD OF SUPERVISORS

STATE OF CALIFORNIA } ss.

I, VALERIE RALPH, Clerk of the Board of Supervisors of the County of Monterey, State of California,

do hereby certify that at a regular session of said Board held in and for said County of Monterey, on [DATE], [NAME] was duly appointed to the {NAME OF BOARD, COMMISSIONS OR COMMITTEE]

with a term ending on [TERM DATE ENDING] in and for Monterey County, State of California, as appears by the Official Records of said Board in my office.



MONTEREY COUNTY

CLERK OF THE BOARD OF SUPERVISORS

To: Clerk of the Board's Office

From: Office of Supervisor Mary Adams, District 5

RE: Notification to Clerk of Appointment

Board of Supervisors' Meeting Date: September 27th, 2022

Appointment to the (Name of the Board, Commission or Committee): Carmel Valley Road Advisory Committee

Nominated by (Supervisor/District and or Association): Supervisor Adams/District 5

Representing (Primary, Alternate, At Large, Community Organization, etc.): Alternate for Business Representative

Nominated Appointee:

Name: Jeffrey Andrews

Address:

Telephone number(s):

Cell:

Home:

Business:

Email:

Contact preference: ☐ USPS Mail or via ☒ Email

Reason for Nomination:

☒ New Appointment

Replacing Member: Kristin Setliff Blackwell

☐ Reappointment

☐ Filling an Unscheduled/Unexpired Term

Replacing Member:

Reason: ☐ Resignation ☐ Death ☐ Term not completed ☐ Other (explain)

Clerk noticed of Unscheduled/Unexpired Term on:

Earliest Board of Supervisors' meeting date appointment can be set is:

Term: 3 year Start Date: September 20th, 2022

Expiration Date: September 20th, 2025

JEFFREY G. ANDREWS

Jeffrey Andrews

Profile

Motivated and driven to excel in every project I have taken on.

Best project to date Married Randi Andrews 8/27/72

8/27/77 Daughter Brooke Andrews

Experience

Hartsdale, New York 1074 1978 Owner Stereo Station 155 So. Central Ave. Hartsdale, N.Y. Sales , Business management, Service High End automotive electronics.

Awarded Largest single store volume ... Bose auto electronics. Alpine Electronics &, Fujitsu Ten. Oem supplier and installer for Aston Martin Lagonda NJ

1978 Moved to Carmel Valley, CA
1978 Owner operator Driving Sounds
Sublet auto electronics for Monterey Jaguar, Ferrari Rolls Royce Ferrari of Los Gatos. My BMW Porsche of Seaside
Very strong Celebrity and Executive clientele in Carmel, Pebble Beach and surrounding areas

2003 - present Opened Avant Garden and Home with spouse Carmel Valley Village.

2003-2019 Board of Carmel Valley Chamber of Commerce (position membership and government affairs)

2019 board President Carmel Valley Village Improvement Committee.

2019-present Opened Carmel Valley Business Center

2005 - present Have unofficially sat in or monitored CVRAC meetings



Monterey County

Item No.6

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: APP 22-184

September 27, 2022

Introduced: 9/13/2022

Current Status: Appointment

Version: 2

Matter Type: Appointment

Reappoint Katie Coburn to the Carmel Valley Road Advisory Committee as a Primary Representative of Mouth-of-the-Valley with a term expiring on June 30, 2025. (Nominated By District 5, Supervisor Adams)

(FOR CLERK OF THE BOARD USE ONLY)

(FOR COUNTY CLERK USE ONLY)

OFFICIAL APPOINTMENT **FILE ID NO.**

[LEGISTAR ID NO.]

BOARD OF SUPERVISORS

STATE OF CALIFORNIA } ss.

I, VALERIE RALPH, Clerk of the Board of Supervisors of the County of Monterey, State of California,

do hereby certify that at a regular session of said Board held in and for said County of Monterey, on [DATE], [NAME] was duly appointed to the {NAME OF BOARD, COMMISSIONS OR COMMITTEE]

with a term ending on [TERM DATE ENDING] in and for Monterey County, State of California, as appears by the Official Records of said Board in my office.



MONTEREY COUNTY

CLERK OF THE BOARD OF SUPERVISORS

To: Clerk of the Board's Office

From: Office of Supervisor Mary Adams, District 5

RE: Notification to Clerk of Appointment

Board of Supervisors' Meeting Date: September 20th, 2022

Appointment to the (Name of the Board, Commission or Committee): Carmel Valley Road Advisory Committee

Nominated by (Supervisor/District and or Association): Supervisor Adams/District 5

Representing (Primary, Alternate, At Large, Community Organization, etc.): Primary of Mouth-of-the-Valley

Nominated Appointee:

Name: Katie Coburn

Address: 6190 Brookdale Drive, Carmel Valley, CA 93923

Telephone number(s):

Cell:

Home: 831-624-1221

Business:

Email: coburn.katie@yahoo.com

Contact preference: ☐ USPS Mail or via ☒ Email

Reason for Nomination:

☐ New Appointment

Replacing Member:

☒ Reappointment

☐ Filling an Unscheduled/Unexpired Term

Replacing Member:

Reason: ☐ Resignation ☐ Death ☐ Term not completed ☐ Other (explain)

Clerk noticed of Unscheduled/Unexpired Term on:

Earliest Board of Supervisors' meeting date appointment can be set is:

Term: 3 year Start Date: June 30th, 2022

Expiration Date: June 30th, 2024

Katie Coburn

Reappointment to the Carmel Valley Road Advisory Committee

Work History/Statement of Interest

College, Teaching in CO, CA Child Center Permit, Site Director, Soledad Child Development Center

Coburn's Flower Farm: Florist, Bookkeeper, Saleswoman, Safety Officer

Exercise Instructor and Personal Trainer: Carmel Valley Racquet Club, Carmel Adult School, CVAC, Garden Fitness, InShape, Monterey Institute of Touch

Volunteer: League of Women Voters Natural Resource Committee, CVRA Committee,

STR Workshop Committee meeting for 18 months, Ad hoc September Ranch Road Committee, Friends of Quail

I understand the CEQA process, I've been on the Road Committee for over a decade. I'm experienced with federal, state, and county rules, corridor studies, traffic studies, and understand the various funding streams and what can and cannot be used for projects and improvements. I can read a spread sheet and understand budgets. I have a lot of horticultural experience. I drive the valley road and have made recommendations for improvements, which have been implemented or are scheduled to be implemented. I listen to my neighbors, and report their concerns. I email Randy Ishii and report hazards for public works to address, both emergency and routine.



Monterey County

Item No.7

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: APP 22-185

September 27, 2022

Introduced: 9/13/2022

Current Status: Appointment

Version: 2

Matter Type: Appointment

Appoint MaryBeth Murray to the Commission on the Status of Women as a District 5 Representative to fill an unexpired term ending on February 1, 2023. (Nominated By District 5, Supervisor Adams)

(FOR CLERK OF THE BOARD USE ONLY)

(FOR COUNTY CLERK USE ONLY)

[LEGISTAR ID NO.] OFFICIAL APPOINTMENT FILE ID NO.
STATE OF CALIFORNIA BOARD OF SUPERVISORS
} ss.

I, VALERIE RALPH, Clerk of the Board of Supervisors of the County of Monterey, State of California,
do hereby certify that at a regular session of said Board held in and for said County of Monterey, on
[DATE], [NAME] was duly appointed to the {NAME OF BOARD, COMMISSIONS OR COMMITTEE}
with a term ending on [TERM DATE ENDING] in and for Monterey County, State of California, as appears by the Official Records of said Board in my office.



MONTEREY COUNTY

CLERK OF THE BOARD OF SUPERVISORS

To: Clerk of the Board's Office

From: Office of Supervisor Mary Adams, District 5

RE: Notification to Clerk of Appointment

Board of Supervisors' Meeting Date: September 27th, 2022

Appointment to the (Name of the Board, Commission or Committee): Commission on the Status of Women

Nominated by (Supervisor/District and or Association): Supervisor Adams/District 5

Representing (Primary, Alternate, At Large, Community Organization, etc.): District 5 Representative

Nominated Appointee:

Name: MaryBeth Murray

Address:

Telephone number(s):

Cell:

Home:

Business:

Email:

Contact preference: ☐ USPS Mail or via ☒ Email

Reason for Nomination:

☐ New Appointment

Replacing Member:

☐ Reappointment

☒ Filling an Unscheduled/Unexpired Term

Replacing Member: Sasha Wirth-Jones

Reason: ☒ Resignation ☐ Death ☐ Term not completed ☐ Other (explain)

Clerk noticed of Unscheduled/Unexpired Term on: August 14th, 2022

Earliest Board of Supervisors' meeting date appointment can be set is: August 23, 2022

Term: 3 year Start Date: September 20th, 2022 Expiration Date: February 1, 2023

MaryBeth Murray (she/her)

Education

Masters of Education – Single Subject: English; Bilingual Authorization (Spanish) **July 2020 – July 2021**

University of California Santa Cruz

Certificate of Great Books **Spring 2019 – Fall 2019**

Monterey Peninsula College, Monterey, CA

Bachelor of Arts - Spanish Languages and Literature **August 2008 – May 2012**

Whitman College, Walla Walla, WA

Experience

Food & Beverage Coordinator at The Lodge at Pebble Beach **March 1, 2022 - Present**

Pebble Beach Company, Pebble Beach, CA

- Manage all administrative tasks for the Director of Food & Beverage including answering the phone, responding to emails, creating and distributing departmental memos, etc.
- Coordinate internal meetings within Food & Beverage departments as well as resort-wide including scheduling, creating an agenda, taking minutes, and managing follow up tasks
- Manage ongoing tasks and projects related to Food & Beverage such as updating menus for special events, coordinating interviews and onsite visits, and tracking department training requirements

Teacher – English 1 and English Language Development **July 2021 – December 2021**

Marina High School, Monterey Peninsula Unified School District

- Designed and taught a culturally sensitive curriculum that met California Common Core State Standards for 9th Grade English Language Arts and English Language Development.
- Taught, supported, and provided feedback to six classes ranging in size from 10-40 students with a variety of linguistic, cultural, and academic backgrounds.
- Managed a variety of ongoing projects outside of classroom teaching, including district and site-level initiatives for professional development, student and family outreach, as well as curricular innovations.

Student Teacher – 7th Grade English Language Arts **November 2020 – June 2021**

North Monterey County Middle School, Castroville, CA

- Fully responsible for two sections of 7th grade ELA, including developing lessons, preparing materials and Google Classroom, teaching classes via Zoom, giving feedback, and grading student work

Student Teacher – 9th Grade Transitional English, AP English Lit **August – November 2020**

Soquel High School, Soquel, CA

- Developed materials, led classes, and provided feedback for student work for 9th Grade Transitional English using a preselected text: Across a Hundred Mountains by Reyna Grande
- Observed and supported my cooperating teacher in his AP English Literature class by facilitating small group discussions and Socratic seminars, providing feedback on student writing, and holding writing conferences with students.

Yoga Instructor **August 2018 – July 2020**

Union Yoga, Monterey, CA

- Create unique class sequences that lead students safely through postures that are meant to stretch and strengthen the body while also provided tools for all around well-being through the eight-limbs of yoga.

Kids Yoga Instructor

September 2019 – July 2020

Monterey, CA

- Create and lead yoga classes that engage kids physically and mentally to begin to understand yoga asana and to learn tools for quieting the mind and dealing with stress. We also have a lot of fun!

Legal Assistant

July 2018 – January 2019

Law Office of Yvonne A. Ascher, Monterey, CA

- Assisted in estate planning preparation and processing, including deed preparation.

Project Manager/Implementation Consultant

October 2012 – February 2018

Epic Systems, Verona, WI; Den Bosch, Netherlands

- Managed teams of 4-6 analysts to build, test, and train software systems for three academic hospitals and a physician practice, including 36 office locations.
- Responsible for determining division learning goals and coordinating all internal application learning opportunities for project management staff.
- Worked as a customer trainer and customer liaison to the development team, including planning and coordination of yearly education events for customers.

Certifications

Healthcare Provider (BLS) Adult, Child, and Infant CPR/AED

Expires May 2023

ProTrainings

SB2042 Preliminary, Single Subject: English; Bilingual Authorization (Spanish), (English Language Learner Authorization BASP)

August 2021

Commission on Teacher Credentialing

California Notary Public

Expires November 2022

200 Hour Yoga Teacher Certification (Yoga Alliance Registered)

April 2018

Authentic Movements, Uvita, Costa Rica

Kidding Around Yoga Certification (Yoga Alliance Registered)

September 2018

Skills

Languages

- Fluent Spanish
- Conversational Dutch

Professional Skills

- Advanced knowledge of Microsoft Office and Google G Suite Applications
- Instructional Design
- Customer Service
- Relationship building
- Communication (written and verbal)
- Public Speaking and Presentation
- Large and Small Group Leadership and Coordination
- Ability to learn and adapt to new technologies and process quickly and accurately.



Monterey County

Item No.8

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: APP 22-186

September 27, 2022

Introduced: 9/13/2022

Current Status: Appointment

Version: 2

Matter Type: Appointment

Appoint Suzanne Cole to the CSA 25 to fill an unexpired term ending on February 9, 2024.
(Nominated By District 5, Supervisor Adams)

(FOR CLERK OF THE BOARD USE ONLY)

(FOR COUNTY CLERK USE ONLY)

[LEGISTAR ID NO.] OFFICIAL APPOINTMENT FILE ID NO.
STATE OF CALIFORNIA BOARD OF SUPERVISORS
} ss.

I, VALERIE RALPH, Clerk of the Board of Supervisors of the County of Monterey, State of California,
do hereby certify that at a regular session of said Board held in and for said County of Monterey, on
[DATE], [NAME] was duly appointed to the {NAME OF BOARD, COMMISSIONS OR COMMITTEE]
with a term ending on [TERM DATE ENDING] in and for Monterey County, State of California, as appears by the Official Records of said Board in my office.



MONTEREY COUNTY

CLERK OF THE BOARD OF SUPERVISORS

To: Clerk of the Board's Office

From: Office of Supervisor Mary Adams, District 5

RE: Notification to Clerk of Appointment

Board of Supervisors' Meeting Date: September 20th, 2022

Appointment to the (Name of the Board, Commission or Committee): CSA 25

Nominated by (Supervisor/District and or Association): Supervisor Adams/District 5

Representing (Primary, Alternate, At Large, Community Organization, etc.): At-large

Nominated Appointee:

Name: Suzanne Cole

Address:

Telephone number(s):

Cell:

Home:

Business:

Email:

Contact preference: ☐ USPS Mail or via ☒ Email

Reason for Nomination:

☐ New Appointment

Replacing Member:

☐ Reappointment

☒ Filling an Unscheduled/Unexpired Term

Replacing Member: Peter Levin

Reason: ☐ Resignation ☒ Death ☐ Term not completed ☐ Other (explain)

Clerk noticed of Unscheduled/Unexpired Term on: August 23, 2022

Earliest Board of Supervisors' meeting date appointment can be set is: September 20, 2022

Term: 3 year Start Date: September 20th, 2022

Expiration Date: February 9, 2024

Resume

Suzanne Cole (*formerly Paboojian*)

Education:

B.A. and California Teaching Credential: Fresno State College-1969
J.D. University of California Law Center-Hastings College of the
Law-1980

Employment:

Teacher: Pacific Grove Unified School District: 1972-1977
Monterey County District Attorney, Family Support Div.: 1980-1982
Fresno County Public Defender: 1982-1983
City of Fresno, Assistant City Attorney: 1983-1984
Shostak & Epstein, Esq., Salinas, CA: 1984-1988
California Courts of Appeal: Appointed Counsel 1988-2000
Real Estate Broker Associate: 2000-Present (Coldwell-Banker Realty)

Community Activities:

President, Delta Gamma Alumnae Association: 1988-1989
Carmel Residents Association:
-Board of Directors: 1992-1999
-President: 1999-2000
Citizens Advisory Committee to the Transportation Agency of Monterey
County: 1999-2000
Board of Directors of the Carmel Area Wastewater District: 2010-2012
Board of Directors of Carmel Valley Townhouse Association: 2020-
Present



Monterey County

Item No.9

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: APP 22-188

September 27, 2022

Introduced: 9/14/2022

Current Status: Appointment

Version: 2

Matter Type: Appointment

Reappoint Karen Araujo to the Commission on the Status of Women as a Primary Representative with a term ending on February 1, 2023. (Nominated By District 4, Supervisor Askew)

(FOR CLERK OF THE BOARD USE ONLY)

(FOR COUNTY CLERK USE ONLY)

OFFICIAL APPOINTMENT FILE ID NO.

[LEGISTAR ID NO.]

BOARD OF SUPERVISORS

STATE OF CALIFORNIA } ss.

I, VALERIE RALPH, Clerk of the Board of Supervisors of the County of Monterey, State of California,

do hereby certify that at a regular session of said Board held in and for said County of Monterey, on [DATE], [NAME] was duly appointed to the {NAME OF BOARD, COMMISSIONS OR COMMITTEE]

with a term ending on [TERM DATE ENDING] in and for Monterey County, State of California, as appears by the Official Records of said Board in my office.

MONTEREY COUNTY

CLERK OF THE BOARD OF SUPERVISORS



To: Clerk of the Board's Office

From: Supervisor Wendy Root Askew

RE: Notification to Clerk of Appointment

Board of Supervisors' Meeting Date: September 27, 2022

Appointment to the (Name of the Board, Commission or Committee): Commission on the Status of Women

Nominated by: Supervisor Wendy Root Askew, District 4

Representing (Primary, Alternate, At Large, Community Organization, etc.): Primary

Nominated Appointee:

Name: Karen Arajuo

Address:

Telephone number(s):

Cell

Home

Business

Email:

Contact preference: ☐ USPS Mail or via ☒ Email

Reason for Nomination:

☐ New Appointment

Replacing Member:

☒ Reappointment

☐ Filling an Unscheduled/Unexpired Term

Replacing Member:

Reason: ☐ Resignation ☐ Death ☐ Term not completed ☐ Other (explain)

Clerk noticed of Unscheduled/Unexpired Term on:

Earliest Board of Supervisors' meeting date appointment can be set is:

Term:

Start Date: Feb 1, 2020

Expiration Date: Feb 1, 2023

Karen Elizabeth Smith Araujo: Roles, Membership, and Recognition - September 2022

Current leadership roles:

Monterey County Democratic Central Committee - Chair (Nov'20 - present)/Chair Elect (8 months)/Vice Chair (3.5yrs)/ Credentials Chair(5.5yrs). Development Officer (6months)

Monterey County Commission on the Status of Women - Member/Treasurer (7.5yrs)

Interfaith Homeless Emergency Lodging Program (I-HELP) - Trustee (Apr'14 - present). Treasurer (2yrs)

Monterey County Housing Advisory Committee - Member (Jan'12 - May'22). Vice Chair (4yrs)

Teamsters Local 912 - Shop Steward at Monterey Bay Central Labor Council (16yrs)

Past roles/recognition of note:

Sustainable Change Award from Democratic Women of Monterey County - Recipient (Fall 2019)

CA Democratic Party Assembly District 30 Election Meeting (ADEM) - Co-Convenor (4yrs - 2x)

Voices of Change: A People's Oral History - Co-Author

ACLU Ralph B. Atkinson Civil Liberties Award - Recipient

Women's March Monterey Bay - Founding Planning Committee (2yrs)

Police Community Advisory Board City of Salinas - Member (6months)

Planning Commission City of Salinas - Chair (2yrs). Commissioner (6yrs)

Gathering for Women - Program Opening Volunteer Team (1yr)

Bracero Memorial Highway Project - Steering Committee (2yrs)

Teamsters Local 912 - Unionist of the Year

Sustainable Salinas (Communities for a Sustainable Monterey Co) - Convenor (2yrs). Member (5yrs)

Peace Coalition of Monterey County - Chair (2yrs). Co-Chair (4yrs). Steering Committee (6yrs)

Human Right to Water Statewide Campaign - South Bay Regional Hub Steering Committee (4yrs)

Sen. Bill Monning's Outstanding Labor, Peace, & Social Justice Activist Awardee - (November 2013)

CA Legislative Ministry of UUA Statewide Leadership Training - Co-Convenor (2yrs)

Redistricting Committee City of Salinas - Council District 3 Representative

UUA Pacific Central District Leadership School - Dean (5yrs). Senior Assistant (3yrs)

National Immigrant Workers Freedom Ride - Northern California Coordinator

Unitarian Universalist Congregation - President/Board member (2yrs)

UNITE HERE (Hotel Workers' Union) Local 483 - Unionist of the Year

Pajaro Primero - Stop Super WalMart! Campaign - Co-Chair (2yrs)

Unitarian Universalist General Assembly National Convention - Registration Coordinator (6yrs)

UNITE HERE Local 483 - Vice President (12yrs). Member (15yrs)

Monterey County Interfaith Alliance for Social and Economic Justice - Secretary (5yrs)

Democratic Club/Caucus membership:

CA Democratic Party Labor Caucus

CA Democratic Party Women's Caucus

CA Democratic Party Progressive Caucus

Progressive Democrats of America, Monterey Area Chapter

Democratic Women of Monterey County



Monterey County

Item No.10

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: APP 22-189

September 27, 2022

Introduced: 9/14/2022

Current Status: Appointment

Version: 2

Matter Type: Appointment

Reappoint Cesar Lara to the Monterey County Workforce Development Board as a Business Organization Representative with a term ending on July 27, 2025. (Nominated By The Monterey County Workforce Development Board)

(FOR CLERK OF THE BOARD USE ONLY)

(FOR COUNTY CLERK USE ONLY)

OFFICIAL APPOINTMENT FILE ID NO.

[LEGISTAR ID NO.]

BOARD OF SUPERVISORS

STATE OF CALIFORNIA } ss.

I, VALERIE RALPH, Clerk of the Board of Supervisors of the County of Monterey, State of California,

do hereby certify that at a regular session of said Board held in and for said County of Monterey, on [DATE], [NAME] was duly appointed to the {NAME OF BOARD, COMMISSIONS OR COMMITTEE]

with a term ending on [TERM DATE ENDING] in and for Monterey County, State of California, as appears by the Official Records of said Board in my office.



MONTEREY COUNTY

CLERK OF THE BOARD OF SUPERVISORS

To: Clerk of the Board's Office

From: Monterey County Workforce Development Board

RE: Notification to Clerk of Appointment

Board of Supervisors' Meeting Date: September 27, 2022

Appointment to the (Name of the Board, Commission or Committee): Monterey County Workforce Development Board

Nominated by (Supervisor/District and or Association): Workforce Development Board

Representing (Primary, Alternate, At Large, Community Organization, etc.): Business Organization

Nominated Appointee:

Name: Cesar Lara

Address:

Telephone number(s):

Cell:

Home:

Business:

Email:

Contact preference: ☐ USPS Mail or via ☒ Email

Reason for Nomination:

☐ New Appointment

Replacing Member:

☒ Reappointment

☐ Filling an Unscheduled/Unexpired Term

Replacing Member:

Reason: ☐ Resignation ☐ Death ☐ Term not completed ☐ Other (explain)

Clerk noticed of Unscheduled/Unexpired Term on:

Earliest Board of Supervisors' meeting date appointment can be set is:

Term:

Start Date: July 27, 2022

Expiration Date: July 27, 2025

Cesar Lara Bio

Cesar Lara was raised in Monterey County California; he's currently the executive director of the **Monterey Bay Central Labor Council**. The Labor council is the local body of the AFL-CIO. They serve as a coalition of the Labor Community in Monterey and Santa Cruz Counties. Over 80 unions are affiliated with the MBCLC, representing more than 37,000 union members and their families. The mission of the MBCLC is to improve the lives of workers, their families, and our community – to help bring economic justice to the workplace and social justice to the Monterey Bay Area.

Cesar Lara is all very active on several statewide and local boards, besides his role at the Labor Council; Cesar is also the Director of Policy and Programs for [MILPA Collective](#), MILPA is a community-based organization that is cultivating change-makers for the next seven generations by improving the health and well-being of the most impacted communities, by creating opportunities for cultural healing, intergenerational leadership, and empowerment through community-driven decision making for healthier communities

Cesar along with his role at the Labor Council and MILPA, He is also the former Secretary-Treasurer of Teamsters Local 890 and director of the Central Coast Citizenship Project in East Salinas California. Cesar was the State Director for the United Farm Workers Nonprofit La Union Del Pueblo Entero (LUPE) and a Congressional Aid to Congressmen Sam Farr. Cesar attended California State University, Chico to obtain his bachelor's in International Relations. The child of immigrant farm workers, immigrant rights and the needs of his community are a priority in his life.



Monterey County

Item No.11

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: APP 22-191

September 27, 2022

Introduced: 9/16/2022

Current Status: Appointment

Version: 2

Matter Type: Appointment

Reappoint Steve MacArthur to the Monterey County Workforce Development Board as a Business Organization Representative with a term ending on October 19, 2025. (Nominated By The Monterey County Workforce Development Board)

(FOR CLERK OF THE BOARD USE ONLY)

(FOR COUNTY CLERK USE ONLY)

OFFICIAL APPOINTMENT FILE ID NO.

[LEGISTAR ID NO.]

BOARD OF SUPERVISORS

STATE OF CALIFORNIA } ss.

I, VALERIE RALPH, Clerk of the Board of Supervisors of the County of Monterey, State of California,

do hereby certify that at a regular session of said Board held in and for said County of Monterey, on [DATE], [NAME] was duly appointed to the {NAME OF BOARD, COMMISSIONS OR COMMITTEE]

with a term ending on [TERM DATE ENDING] in and for Monterey County, State of California, as appears by the Official Records of said Board in my office.



MONTEREY COUNTY

CLERK OF THE BOARD OF SUPERVISORS

To: Clerk of the Board's Office

From: Monterey County Workforce Development Board

RE: Notification to Clerk of Appointment

Board of Supervisors' Meeting Date: September 27, 2022

Appointment to the (Name of the Board, Commission or Committee): Monterey County Workforce Development Board

Nominated by (Supervisor/District and or Association): Workforce Development Board

Representing (Primary, Alternate, At Large, Community Organization, etc.): Business Organization

Nominated Appointee:

Name: Steve MacArthur

Address:

Telephone number(s):

Cell:

Home:

Business:

Email:

Contact preference: ☐ USPS Mail or via ☒ Email

Reason for Nomination:

☐ New Appointment

Replacing Member:

☒ Reappointment

☐ Filling an Unscheduled/Unexpired Term

Replacing Member:

Reason: ☐ Resignation ☐ Death ☐ Term not completed ☐ Other (explain)

Clerk noticed of Unscheduled/Unexpired Term on:

Earliest Board of Supervisors' meeting date appointment can be set is:

Term:

Start Date: October 19, 2022

Expiration Date: October 19, 2025

My name is Steve MacArthur. I am currently the Business Manager Financial Secretary / Treasurer of the Plumbers & Steamfitters United Association Local 62 representing Monterey and Santa Cruz Counties. I am also the Director of the Pipe Trades Apprenticeship Training Program. I am a Trustee of The Pipe Trades District Council #36 Pension, Health & Welfare, and Training Trust Funds. I entered the Plumbers & Pipefitter's Apprenticeship program in 1982 when I was 19 years old. During my career I have worked as Plumber, Pipefitter, and Pipe Welder on various construction projects throughout Monterey and Santa Cruz Counties. In 1989 I was elected Recording Secretary, in 1998 I was elected President, and in 2009 I was elected Business Manager of Local 62. I am a 40-year member of U.A. Local 62. I have lived in Monterey County since 1973 and I am a graduate of the Salinas City School system. I have been a member of the Workforce Development Board since 2011.



Monterey County

Item No.12

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: APP 22-192

September 27, 2022

Introduced: 9/16/2022

Current Status: Appointment

Version: 2

Matter Type: Appointment

Reappoint Erik Cushman to the Monterey County Workforce Development Board as Business Organization Representative with a term ending on December 11, 2022. (Nominated By The Monterey County Workforce Development Board)

(FOR CLERK OF THE BOARD USE ONLY)

(FOR COUNTY CLERK USE ONLY)

OFFICIAL APPOINTMENT FILE ID NO.

[LEGISTAR ID NO.]

BOARD OF SUPERVISORS

STATE OF CALIFORNIA } ss.

I, VALERIE RALPH, Clerk of the Board of Supervisors of the County of Monterey, State of California,

do hereby certify that at a regular session of said Board held in and for said County of Monterey, on [DATE], [NAME] was duly appointed to the {NAME OF BOARD, COMMISSIONS OR COMMITTEE]

with a term ending on [TERM DATE ENDING] in and for Monterey County, State of California, as appears by the Official Records of said Board in my office.



MONTEREY COUNTY

CLERK OF THE BOARD OF SUPERVISORS

To: Clerk of the Board's Office

From: Monterey County Workforce Development Board

RE: Notification to Clerk of Appointment

Board of Supervisors' Meeting Date: September 27, 2022

Appointment to the (Name of the Board, Commission or Committee): Monterey County Workforce Development Board

Nominated by (Supervisor/District and or Association): Workforce Development Board

Representing (Primary, Alternate, At Large, Community Organization, etc.): Business Organization

Nominated Appointee:

Name: Erik Cushman

Address:

Telephone number(s):

Cell:

Home:

Business:

Email:

Contact preference: ☐ USPS Mail or via ☒ Email

Reason for Nomination:

☐ New Appointment

Replacing Member:

☒ Reappointment

☐ Filling an Unscheduled/Unexpired Term

Replacing Member:

Reason: ☐ Resignation ☐ Death ☐ Term not completed ☐ Other (explain)

Clerk noticed of Unscheduled/Unexpired Term on:

Earliest Board of Supervisors' meeting date appointment can be set is:

Term:

Start Date: December 11, 2022

Expiration Date: December 11, 2025

Erik Cushman bio
August, 2022

Erik Cushman has been Publisher of the Monterey County *Weekly* since 2001, when it was known as the *Coast Weekly*. The *Weekly* currently reaches one in three households in Monterey County making it our most widely read publication. Erik joined in 1999 after serving as general manager of the Colorado Springs *Independent*. Previously, he had overseen business operations as publisher of the Missoula *Independent*, which he had co-founded in 1991 as a student at the University of Montana.

During Cushman's tenure, the *Weekly's* staff have received the First Amendment Coalition Free Speech & Open Government Award in 2015; the Association of Alternative Newsmedia's Free Speech Award in 2016; and the coveted General Excellence award in the California News Publishers Association's statewide contest in 2017. The paper has won nearly 100 local, regional, and national awards for editorial content, design and photography.

Under his guidance, the *Weekly* has formed meaningful partnerships within the community to highlight significant causes and raise money. The Monterey County Gives! program has raised over \$35 million since 2009 to support local non-profits including \$9.8 million last year.

Erik is a member of the Board of Directors of the California News Publishers Association – the statewide press association.

Cushman is also chair of the Monterey County Workforce Development Board and with unanimous support of the Monterey County Board of Supervisors the Workforce Development Board disbursed approximately \$2.7 million in CARES Act money to local business owners in 2021. The money was made available in grants up to \$10,000 to employers impacted by Covid-19.

Erik and his wife Kristin, who is CEO of an environmental consultancy, live in Pacific Grove. They have two daughters in college.



MONTEREY COUNTY

CLERK OF THE BOARD OF SUPERVISORS

To: Clerk of the Board's Office

From: Supervisor Wendy Root Askew, District 4

RE: Notification to Clerk of Appointment

Board of Supervisors' Meeting Date: September 27, 2022

Appointment to the (Name of the Board, Commission or Committee): Community Action Commission

Nominated by (Supervisor/District and or Association): Supervisor Wendy Root Askew

Representing (Primary, Alternate, At Large, Community Organization, etc.): Low-income Representative

Nominated Appointee:

Name: Germaine Esquivel

Address:

Telephone number(s):

Cell

Home

Business

Email:

Contact preference: ☐ USPS Mail or via ☒ Email

Reason for Nomination:

☒ New Appointment

Replacing Member:

☐ Reappointment

☐ Filling an Unscheduled/Unexpired Term

Replacing Member:

Reason: ☐ Resignation ☐ Death ☐ Term not completed ☐ Other (explain)

Clerk noticed of Unscheduled/Unexpired Term on:

Earliest Board of Supervisors' meeting date appointment can be set is:

Term:

Start Date: 09-27-2022

Expiration Date: 09-27-2025

A PERSONAL PROFESSIONAL

in the Human Services field, utilizing, leading, & empowering assets to efficiently support a united cause

ELIGIBLE SKILLS

- Beyond proficient in communication, expressed in presentation, group facilitation, & liaising
- Objective, composed, & multi-tasked in attitude, especially in high stress environments
- Passionate in the field of service provision, excellent in resource reference

EDUCATION

BACHELOR OF ARTS

Collaborative Health & Human Services,
Concentration in Social Work

California State University, Monterey Bay
Winner, Outstanding Senior for Social Justice

CERTIFICATIONS

LEADERSHIP EDUCATION & DEVELOPMENT (LEAD)

*FACILITATED BY THE CENTER OF NONPROFIT EXCELLENCE, A DIVISION OF
COMMUNITY FOUNDATION FOR MONTEREY COUNTY*

Integrated education in nonprofit leadership management from a culturally competent & collaborative approach.

Topics covered: program management & evaluation, strategic planning, fund development, human resource management, public communications, theory of change & organizational application, nonprofit technology, board governance, & advocacy

40-HOUR DOMESTIC VIOLENCE ADVOCACY & FACILITATION CERTIFICATION

*IN ACCORDANCE WITH CALIFORNIA EVIDENCE CODE 1037.1(A)
& DEFINED BY OFFICE OF JUSTICE PLANNING*

Educated in domestic violence definitions & overview.

Including: history, impact on youth, cultural competency, prevention, bystander intervention techniques, safety planning, populations with unique / complex issues, confidentiality & privilege, crisis intervention, vicarious trauma, & current references & resources

INTERESTS

- Serves as public speaker for Sexual Assault & Violence Prevention Group, Difference Makers (10-Strong)
- Food & Beverage Hospitality Educator
- Dedicated to health & wellness through long distance running, nutrition education, & social fitness groups

COMMUNITY ORGANIZATIONAL EXPERIENCE

LULAC.....(Oct '14 – present)

- League of United Latin American Citizens (LULAC)
Council 2055 (Greater Salinas)
& District 12 (Central California)
Sergeant At Arms, Deputy Director of Women's Affairs, Scholarship Committee Chair
- Communicates with & recruits Latino citizens to participate in national & local-affiliate civil rights movements
 - Assesses applications & awards scholarships for college-going Latino high school seniors, based in Salinas, California
 - Collaborates with committees to create additional local bi-laws consistent with National criterion

HARTNELL COLLEGE FOUNDATION.....(Mar '14 – present)

- Women's Education Leadership Initiative (WELI)
Program Coordinator & Facilitator [Contractor]
- Facilitates life skills course for women scholarship recipients, guides scholars toward self-creating career paths while actively balancing mental, emotional, & physical health
 - Liaises between scheduled agency presenters, scholars, & administrative personnel to strengthen & maintain network
 - Establishes professional pathways & mentorship, enabling leadership & academic achievement for program recipients

YWCA MONTEREY COUNTY.....(Feb '09 – Jun '19)

- Director of Supportive Services / Training Coordinator
- Administratively oversaw primary prevention work in domestic violence & human trafficking through education, advocacy, outreach, & community mobilization
 - Coordinated & facilitated California-mandated domestic violence training for service professionals throughout Monterey County
 - Enacted national affiliate mission to eliminate racism & empower women by enforcing social justice policy into organizational program practice serving the community

LA DEPT OF PUBLIC SOCIAL SERVICES.....(Jan '07 – Mar '08)

- In-Home Care & Support to the Mentally Disabled
- Provided medical & non-medical care service
 - Assisted clients in medical rehabilitation
 - Maintained health standard protective orders

US ARMY RESERVE.....(Mar '98 – Mar '06)

- Platoon Sergeant, Team Leader
- Managed company level accountability
 - Led scheduling, training, & promotion
 - Administered company & battalion level planning



LULAC District 12
Andrew Sandoval, District Director

8/15/2022

Dear Monterey County Community Action Partnership,

My name is Andrew Sandoval and I am the LULAC District 12 Director which encompasses Monterey and San Benito Counties. Germaine Esquivel was elected by acclamation as Deputy District Director for Women's Affairs and her duties include (1) To have supervisory control over such District committees and areas of work pertaining to Women's Activities; (2) To discharge those duties and responsibilities assigned by the District Director.

We currently serve disadvantaged communities across both counties, providing scholarships, food distributions, and support in many areas. This is Germaine Esquivel's second time being elected to his role. Her dedication to her community is unwavering.

I whole heartily endorse Germaine for this position with Monterey County Community Action Partnership.

Andrew Sandoval

LULAC District 12 Director

The Mission of the League of United Latin American Citizens is to advance the economic condition, educational attainment, political influence, housing, health and civil rights of the Hispanic population of the United States.

Germaine Esquivel Biography

Germaine Esquivel has been a Monterey Peninsula resident for 20 years. Originally hailing from Long Beach, Southern California, she was raised as a recipient of public assistance, but was empowered early on to also create leadership within herself to inspire her community. She served in the US Army Reserve from 1998-2006 and completed her commitment as a E-5 level Sergeant. She then went to CSU Monterey Bay to study Collaborative Health & Human Services and to evolve cyclically as a community services champion. She served with YWCA Monterey County for over 10 years, focusing on Violence Prevention Education, Youth Leadership, and Advocacy Training. She also worked with other YWCAs nationwide to create Policy Change in support of Racial Justice. After her tenure with YWCA, she sought community work with LULAC, the League of United Latin American Citizens, a national Civil Rights Organization that focuses on empowering the Latino Population. Currently she serves on the board of local LULAC Council 2055, recognized as Council of the Year by LULAC National, as Sergeant-At-Arms, and also with LULAC District 12 as Deputy Director of Women's Affairs. Germaine has also served in the Food & Beverage Industry for over 25 years, currently as a local Sommelier and Restaurant Manager. As a proponent to the underserved, she aims to connect those who work countless hours in the fields, in restaurants, and on the frontline to the services and representation they deserve. She now resides as a homeowner in District 4 and couldn't be more proud of her community. She very much looks forward to serving her community on a deeper level.



Monterey County

Item No.14

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: OBM 22-129

September 27, 2022

Introduced: 9/19/2022

Current Status: Agenda Ready

Version: 1

Matter Type: Other Board Matters

See Supplemental Sheet



Monterey County

Item No.15

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: OBM 22-130

September 27, 2022

Introduced: 9/19/2022

Current Status: Agenda Ready

Version: 1

Matter Type: Other Board Matters

General Public Comments

This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board of Supervisors. Board members may respond briefly to the statement made or questions posed. They may ask a question for clarification; make a referral to staff for factual information or request staff to report back to the Board at a future meeting.



Monterey County

Item No.16

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 22-176

September 27, 2022

Introduced: 9/16/2022

Current Status: Scheduled PM

Version: 1

Matter Type: BoS Resolution

Adopt a Resolution to:

- a. Authorize the reallocation of unspent American Rescue Plan Act of 2021 (ARPA) funds of \$1,178,797 to the Pajaro County Sanitation District;
- b. Authorize and direct the Auditor-Controller to amend the Fiscal Year (FY) 2022-23 Adopted Budget for the General Fund, Fund 001, Other Financing Uses Appropriation Unit CAO017, to increase appropriations by \$1,320,603, where the financing source is Cannabis Tax Assignment (001-3132) (4/5th vote required);
- c. Authorize and direct the Auditor-Controller to amend the FY 2022-23 Pajaro County Sanitation District Adopted Budget, Fund 151, Appropriation Unit PFP047, to increase appropriations by \$2,499,400, financed by an increase in ARPA revenues of \$1,178,797 and an operating transfer in of \$1,320,603 from General Fund, Fund 001, Other Financing Uses Appropriation Unit CAO017 to fund projected budget deficiency (4/5th vote required); and
- d. Authorize and direct the Auditor-Controller to transfer \$1,320,603 for the FY 2022-23 from General Fund, Fund 001, Other Financing Uses CAO017, to Pajaro County Sanitation District, Fund 151, Appropriation Unit PFP047, where General Fund Other Financing Uses has sufficient appropriations available to fund the transfer (4/5ths vote required).

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Authorize the reallocation of unspent American Rescue Plan Act of 2021 (ARPA) funds of \$1,178,797 to the Pajaro County Sanitation District;
- b. Authorize and direct the Auditor-Controller to amend the Fiscal Year (FY) 2022-23 Adopted Budget for the General Fund, Fund 001, Other Financing Uses Appropriation Unit CAO017, to increase appropriations by \$1,320,603, where the financing source is Cannabis Tax Assignment (001-3132) (4/5th vote required);
- c. Authorize and direct the Auditor-Controller to amend the FY 2022-23 Pajaro County Sanitation District Adopted Budget, Fund 151, Appropriation Unit PFP047, to increase appropriations by \$2,499,400, financed by an increase in ARPA revenues of \$1,178,797 and an operating transfer in of \$1,320,603 from General Fund, Fund 001, Other Financing Uses Appropriation Unit CAO017 to fund projected budget deficiency (4/5th vote required); and
- d. Authorize and direct the Auditor-Controller to transfer \$1,320,603 for the FY 2022-23 from General Fund, Fund 001, Other Financing Uses CAO017, to Pajaro County Sanitation District, Fund 151, Appropriation Unit PFP047, where General Fund Other Financing Uses has sufficient appropriations available to fund the transfer (4/5ths vote required).

SUMMARY/DISCUSSION:

Background

The County-owned Pajaro County Sanitation District (PCSD) is in northern Monterey County, as shown in Attachment A. The PCSD consists of a wastewater collection system of approximately 16.5 miles of gravity sewer pipe, six (6) pump stations, and approximately 2.4 miles of force sewer main. There are approximately 1,047 sewer connections and 1,768 billing units.

PCSD is a collection system only and does not provide wastewater treatment. Instead, collected sewage is pumped to the City of Watsonville (City) wastewater treatment plant (plant) and, under an agreement with the City, the plant accepts and treats sewage. The PCSD is charged for its share of the plant's costs based on its fraction of total wastewater received by the plant and the strength of received wastewater. Wastewater strength refers to the levels of Total Suspended Solids (TSS) and Biological Oxygen Demand (BOD) in the wastewater. High/Low strength wastewater refers to TSS and BOD levels above/below that of typical domestic wastewater.

The Public Works, Facilities and Parks Department (PWFP) is implementing several water and sewer infrastructure repair and improvement projects funded with American Rescue Plan Act (ARPA) funds. The projects include approximately \$2 million of capital improvements to the PCSD system, including cleaning and repairing sewer lines, manholes, and pump stations. These improvements are expected to be completed by mid-2023.

Efforts are also underway to sell the PCSD system to an experienced operator per prior Board direction.

Projected Budget Shortfall

The PCSD is expected to incur costs greater than anticipated revenues in FY 2022-23. FY 2021-22 ending Fund balance for PCSD is \$4,959. Estimated FY 2022-23 PCSD revenue is approximately \$911,462, while expenses are expected to total approximately \$3,415,821, which equates to a budget shortfall of approximately \$ 2,499,400. PWFP recognized the projected shortfall during the development of the proposed FY 2022-23 budget and submitted an augmentation request for the shortfall amount. This was intended to provide needed funding for the PCSD system through FY 2022-23 so that a Proposition 218 process could be conducted to establish updated service rates that would generate sufficient ongoing revenue. The augmentation request was not recommended for funding by the County Administrative Office due to budgetary constraints. Staff projects that the PCSD will enter a negative appropriation position in October, at which time invoices can no longer be paid.

The cost increases are primarily attributable to the significant increase in the City's treatment plant capital improvement costs and the increasing strength of PCSD wastewater, which increases the fraction of the City's costs to operate and maintain the plant for which PCSD is responsible. Regarding the increase in wastewater strength, the County's fraction of plant operations costs is based on the following parameters: PCSD flow to the plant, and the levels of TSS, and BOD in the wastewater. While the flow has stayed relatively constant over the past several years, TSS and BOD has increased significantly. These increases may result from PCSD's commercial customers

discharging wastewater of higher-than-normal strength into the system.

Efforts are currently underway to lower these costs, including working with the City to amortize its projected capital improvement costs over time, identifying ways to lower TSS and BOD values (and thus reduce the fraction of Operating costs for which PCSD is responsible), identifying those customers who are discharging relatively large quantities of high strength wastewater into the system (and increasing their rates accordingly), and implementing (as part of current ARPA upgrades) methods to reduce wastewater strength before entering the plant. The City has also applied for grant funding to help defray the high capital costs. To that end, the County submitted a letter of support for inclusion in the grant application package.

Customer Service Rates Update

In light of the projected budget shortfall and progress on PCSD system repairs and condition assessments under the ARPA program, work has been accelerated to develop proposed updated rates for approval via a required Proposition 218 process. Key considerations in developing proposed rates include:

- The projected FY 2022-23 budget shortfall;
- Repayment of two existing loans.
 - The 2017 Winter Storm loan of \$1,874,264 was funded with Disaster Assistance Allocation (BSA 3126), pending FEMA determination and an insurance claim. These funds included \$359,624 in FY 2016-17 and \$1,515,000 in FY 2017-18 for the Sewer Spill, Manhole Repair and Generator Replacement. FEMA denied the claim due to deterioration and deferred maintenance and the County did not carry pollution insurance at the time of the event, so there was no coverage (note - coverage was secured in April 2019). Unless the loan is forgiven or other funds are allocated for loan payoff, the loan repayment term begins one year after a sewer rate increase has been established that include loan payback provisions.
 - The Las Lomas Lift Station loan for \$67,397 was funded with General Fund Contingencies. Like the Winter Storm Loan, this loan has the same repayment terms.
- Future operating costs and reserves for anticipated future capital improvements/major maintenance.

The current average rate for one (1) billing unit in the PCSD is just under \$30 per month, which has not changed since 2007. Given this and to account for the items above, the proposed rates could be significantly higher. For example, service rates in the Chualar CSA-75 sanitary system were updated in 2018, where the base rate (single family residence) increased from \$13.92 to \$66.03. As detailed information is developed over the next few months, several options will be formulated to show the corresponding impact on service rates and obtain approval of a set of proposed rates emerging from the Proposition 218 process. Options could include funding the shortfall with other funds, forgiving the existing loan, paying it off with other funds, or spreading the cost of these items over time and in the new billing rates.

A chart showing the timeline for establishing and implementing final customer rates is presented in Attachment B. Draft final rates will be presented to the Budget Committee in November and then to

the Board of Supervisors in December. As shown, final rate increases are scheduled to be implemented in February 2023.

Recommendation for Addressing Appropriation Shortfall

Considering these circumstances, the most immediate issue is the current fiscal year appropriations shortfall of \$2,499,400. The PCSD will run out of appropriations in October 2022 when ongoing monthly expenses will exceed the total annual revenue. To bridge the gap between October and when updated rates can be implemented, PWWP coordinated with the County Administrative Office Budget & Analysis Division to identify funding options to address the projected budget shortfall.

Recommended funding includes unspent ARPA funds, for the capital outlay portion (\$1,178,797), and Cannabis Tax Assignment for the remainder (\$1,320,603).

Another option would be an additional loan. This would increase PCSD's loan balance to \$4,441,061. If a loan is approved, staff would recommend it be interest-free and amortized over a 5-year period. The average increase in customer rates required to pay back the loan would be approximately \$42 per month. This amount would be in addition to a new monthly rate to be determined by the rate study. As discussed above, the actual rates will emerge from Proposition 218 process which are scheduled to be implemented in February 2023.

OTHER AGENCY INVOLVEMENT:

At its August 31, 2022 meeting, the Budget Committee received a report from staff regarding the PCSD's projected FY 2022-23 budget deficiency and potential approaches to addressing the deficiency. During the meeting, the Budget Committee was supportive of a loan to address the budget deficiency.

FINANCING:

As shown in Attachment C, the PCSD has a beginning fund balance of \$4,959 and projected revenue for FY 2022-23 is \$911,462. Expenses are expected to total approximately \$3,415,821, which equates to a budget shortfall of \$ 2,499,400. If approved, financing would be provided by unspent FY 2021-22 ARPA funds for the capital outlay portion (\$1,178,797), and Cannabis Tax Assignment for the remainder (\$1,320,603). The specifics regarding ARPA unspent source will be discussed during the presentation. The Cannabis Tax Assignment Balance is \$2,070,116, which if approved, would be reduced to \$749,513.

Prepared by: Erich Rauber PE, GE, District Engineer (831) 755-5855

Reviewed by: Tom Bonigut, PE, Assistant Director of Public Works, Facilities and Parks

Approved by: Randy Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities and Parks

The following attachments are on file with the Clerk of the Board:

Attachment A - PCSD Area Map

Attachment B - Rate Study Schedule

Attachment C - Financial Summary

Attachment D - Resolution



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers

168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 22-176

September 27, 2022

Introduced: 9/16/2022

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

Adopt a Resolution to:

- a. Authorize the reallocation of unspent American Rescue Plan Act of 2021 (ARPA) funds of \$1,178,797 to the Pajaro County Sanitation District;
- b. Authorize and direct the Auditor-Controller to amend the Fiscal Year (FY) 2022-23 Adopted Budget for the General Fund, Fund 001, Other Financing Uses Appropriation Unit CAO017, to increase appropriations by \$1,320,603, where the financing source is Cannabis Tax Assignment (001-3132) (4/5th vote required);
- c. Authorize and direct the Auditor-Controller to amend the FY 2022-23 Pajaro County Sanitation District Adopted Budget, Fund 151, Appropriation Unit PFP047, to increase appropriations by \$2,499,400, financed by an increase in ARPA revenues of \$1,178,797 and an operating transfer in of \$1,320,603 from General Fund, Fund 001, Other Financing Uses Appropriation Unit CAO017 to fund projected budget deficiency (4/5th vote required); and
- d. Authorize and direct the Auditor-Controller to transfer \$1,320,603 for the FY 2022-23 from General Fund, Fund 001, Other Financing Uses CAO017, to Pajaro County Sanitation District, Fund 151, Appropriation Unit PFP047, where General Fund Other Financing Uses has sufficient appropriations available to fund the transfer (4/5ths vote required).

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Authorize the reallocation of unspent American Rescue Plan Act of 2021 (ARPA) funds of \$1,178,797 to the Pajaro County Sanitation District;
- b. Authorize and direct the Auditor-Controller to amend the Fiscal Year (FY) 2022-23 Adopted Budget for the General Fund, Fund 001, Other Financing Uses Appropriation Unit CAO017, to increase appropriations by \$1,320,603, where the financing source is Cannabis Tax Assignment (001-3132) (4/5th vote required);
- c. Authorize and direct the Auditor-Controller to amend the FY 2022-23 Pajaro County Sanitation District Adopted Budget, Fund 151, Appropriation Unit PFP047, to increase appropriations by \$2,499,400, financed by an increase in ARPA revenues of \$1,178,797 and an operating transfer in of \$1,320,603 from General Fund, Fund 001, Other Financing Uses Appropriation Unit CAO017 to fund projected budget deficiency (4/5th vote required); and
- d. Authorize and direct the Auditor-Controller to transfer \$1,320,603 for the FY 2022-23 from General Fund, Fund 001, Other Financing Uses CAO017, to Pajaro County Sanitation District, Fund 151, Appropriation Unit PFP047, where General Fund Other Financing Uses has sufficient appropriations available to fund the transfer (4/5ths vote required).

SUMMARY/DISCUSSION:***Background***

The County-owned Pajaro County Sanitation District (PCSD) is in northern Monterey County, as shown in Attachment A. The PCSD consists of a wastewater collection system of approximately 16.5 miles of gravity sewer pipe, six (6) pump stations, and approximately 2.4 miles of force sewer main. There are approximately 1,047 sewer connections and 1,768 billing units.

PCSD is a collection system only and does not provide wastewater treatment. Instead, collected sewage is pumped to the City of Watsonville (City) wastewater treatment plant (plant) and, under an agreement with the City, the plant accepts and treats sewage. The PCSD is charged for its share of the plant's costs based on its fraction of total wastewater received by the plant and the strength of received wastewater. Wastewater strength refers to the levels of Total Suspended Solids (TSS) and Biological Oxygen Demand (BOD) in the wastewater. High/Low strength wastewater refers to TSS and BOD levels above/below that of typical domestic wastewater.

The Public Works, Facilities and Parks Department (PWFP) is implementing several water and sewer infrastructure repair and improvement projects funded with American Rescue Plan Act (ARPA) funds. The projects include approximately \$2 million of capital improvements to the PCSD system, including cleaning and repairing sewer lines, manholes, and pump stations. These improvements are expected to be completed by mid-2023.

Efforts are also underway to sell the PCSD system to an experienced operator per prior Board direction.

Projected Budget Shortfall

The PCSD is expected to incur costs greater than anticipated revenues in FY 2022-23. FY 2021-22 ending Fund balance for PCSD is \$4,959. Estimated FY 2022-23 PCSD revenue is approximately \$911,462, while expenses are expected to total approximately \$3,415,821, which equates to a budget shortfall of approximately \$ 2,499,400. PWFP recognized the projected shortfall during the development of the proposed FY 2022-23 budget and submitted an augmentation request for the shortfall amount. This was intended to provide needed funding for the PCSD system through FY 2022-23 so that a Proposition 218 process could be conducted to establish updated service rates that would generate sufficient ongoing revenue. The augmentation request was not recommended for funding by the County Administrative Office due to budgetary constraints. Staff projects that the PCSD will enter a negative appropriation position in October, at which time invoices can no longer be paid.

The cost increases are primarily attributable to the significant increase in the City's treatment plant capital improvement costs and the increasing strength of PCSD wastewater, which increases the fraction of the City's costs to operate and maintain the plant for which PCSD is responsible. Regarding the increase in wastewater strength, the County's fraction of plant operations costs is based on the following parameters: PCSD flow to the plant, and the levels of TSS, and BOD in the wastewater. While the flow has stayed relatively constant over the past several years, TSS and BOD has increased significantly. These increases may result from PCSD's commercial customers

discharging wastewater of higher-than-normal strength into the system.

Efforts are currently underway to lower these costs, including working with the City to amortize its projected capital improvement costs over time, identifying ways to lower TSS and BOD values (and thus reduce the fraction of Operating costs for which PCSD is responsible), identifying those customers who are discharging relatively large quantities of high strength wastewater into the system (and increasing their rates accordingly), and implementing (as part of current ARPA upgrades) methods to reduce wastewater strength before entering the plant. The City has also applied for grant funding to help defray the high capital costs. To that end, the County submitted a letter of support for inclusion in the grant application package.

Customer Service Rates Update

In light of the projected budget shortfall and progress on PCSD system repairs and condition assessments under the ARPA program, work has been accelerated to develop proposed updated rates for approval via a required Proposition 218 process. Key considerations in developing proposed rates include:

- The projected FY 2022-23 budget shortfall;
- Repayment of two existing loans.
 - The 2017 Winter Storm loan of \$1,874,264 was funded with Disaster Assistance Allocation (BSA 3126), pending FEMA determination and an insurance claim. These funds included \$359,624 in FY 2016-17 and \$1,515,000 in FY 2017-18 for the Sewer Spill, Manhole Repair and Generator Replacement. FEMA denied the claim due to deterioration and deferred maintenance and the County did not carry pollution insurance at the time of the event, so there was no coverage (note - coverage was secured in April 2019). Unless the loan is forgiven or other funds are allocated for loan payoff, the loan repayment term begins one year after a sewer rate increase has been established that include loan payback provisions.
 - The Las Lomas Lift Station loan for \$67,397 was funded with General Fund Contingencies. Like the Winter Storm Loan, this loan has the same repayment terms.
- Future operating costs and reserves for anticipated future capital improvements/major maintenance.

The current average rate for one (1) billing unit in the PCSD is just under \$30 per month, which has not changed since 2007. Given this and to account for the items above, the proposed rates could be significantly higher. For example, service rates in the Chualar CSA-75 sanitary system were updated in 2018, where the base rate (single family residence) increased from \$13.92 to \$66.03. As detailed information is developed over the next few months, several options will be formulated to show the corresponding impact on service rates and obtain approval of a set of proposed rates emerging from the Proposition 218 process. Options could include funding the shortfall with other funds, forgiving the existing loan, paying it off with other funds, or spreading the cost of these items over time and in the new billing rates.

A chart showing the timeline for establishing and implementing final customer rates is presented in Attachment B. Draft final rates will be presented to the Budget Committee in November and then to

the Board of Supervisors in December. As shown, final rate increases are scheduled to be implemented in February 2023.

Recommendation for Addressing Appropriation Shortfall

Considering these circumstances, the most immediate issue is the current fiscal year appropriations shortfall of \$2,499,400. The PCSD will run out of appropriations in October 2022 when ongoing monthly expenses will exceed the total annual revenue. To bridge the gap between October and when updated rates can be implemented, PWFP coordinated with the County Administrative Office Budget & Analysis Division to identify funding options to address the projected budget shortfall. Recommended funding includes unspent ARPA funds, for the capital outlay portion (\$1,178,797), and Cannabis Tax Assignment for the remainder (\$1,320,603).

Another option would be an additional loan. This would increase PCSD's loan balance to \$4,441,061. If a loan is approved, staff would recommend it be interest-free and amortized over a 5-year period. The average increase in customer rates required to pay back the loan would be approximately \$42 per month. This amount would be in addition to a new monthly rate to be determined by the rate study. As discussed above, the actual rates will emerge from Proposition 218 process which are scheduled to be implemented in February 2023.

OTHER AGENCY INVOLVEMENT:

At its August 31, 2022 meeting, the Budget Committee received a report from staff regarding the PCSD's projected FY 2022-23 budget deficiency and potential approaches to addressing the deficiency. During the meeting, the Budget Committee was supportive of a loan to address the budget deficiency.

FINANCING:

As shown in Attachment C, the PCSD has a beginning fund balance of \$4,959 and projected revenue for FY 2022-23 is \$911,462. Expenses are expected to total approximately \$3,415,821, which equates to a budget shortfall of \$ 2,499,400. If approved, financing would be provided by unspent FY 2021-22 ARPA funds for the capital outlay portion (\$1,178,797), and Cannabis Tax Assignment for the remainder (\$1,320,603). The specifics regarding ARPA unspent source will be discussed during the presentation. The Cannabis Tax Assignment Balance is \$2,070,116, which if approved, would be reduced to \$749,513.

Prepared by: Erich Rauber PE, GE, District Engineer (831) 755-5855

Reviewed by: Tom Bonigut, PE, Assistant Director of Public Works, Facilities and Parks

Approved by: Randy Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities and Parks

ds
R

The following attachments are on file with the Clerk of the Board:

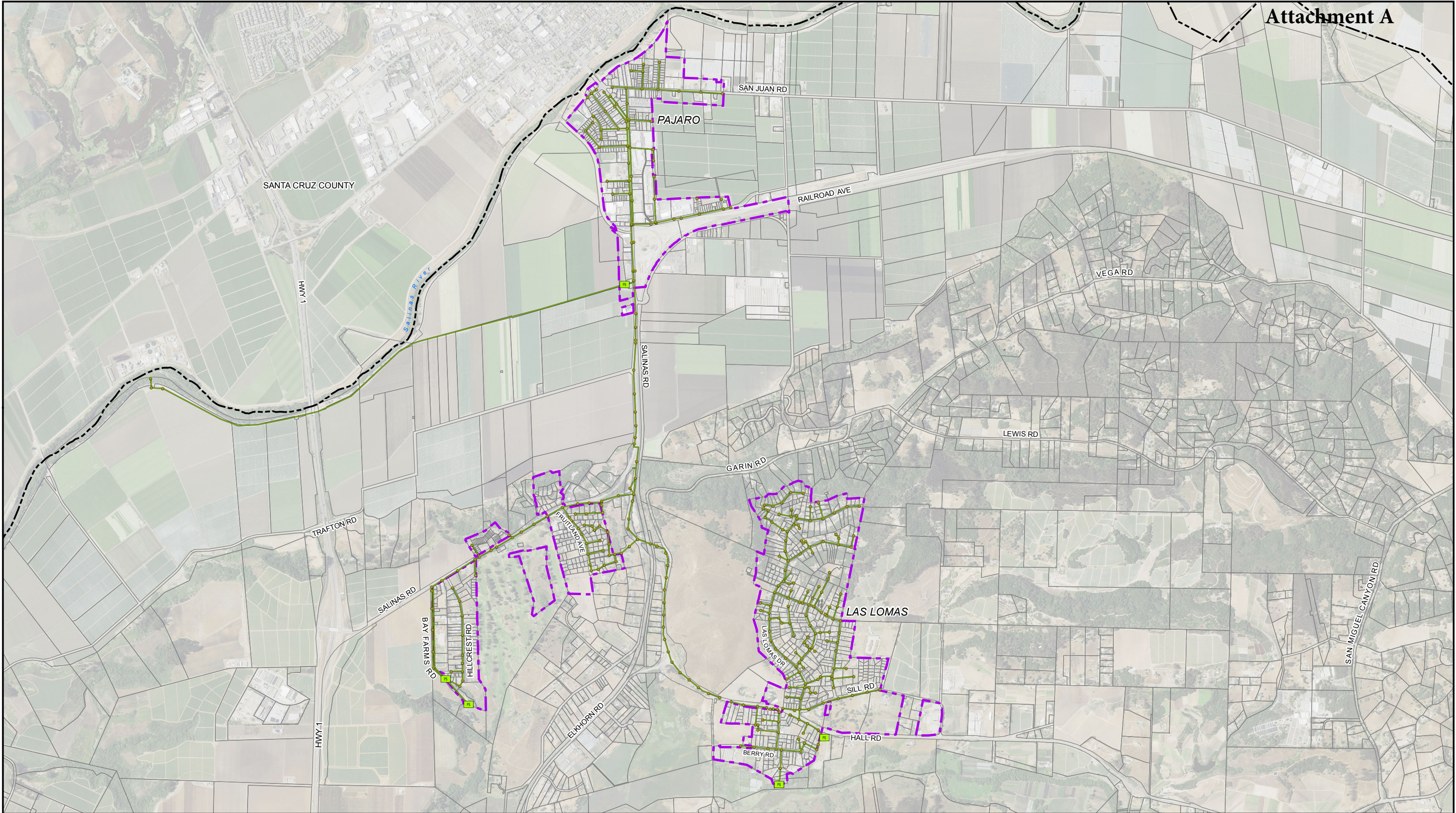
Attachment A - PCSD Area Map

Attachment B - Rate Study Schedule

Attachment C - Financial Summary

Attachment D - Resolution

Legistar File Number: RES 22-176

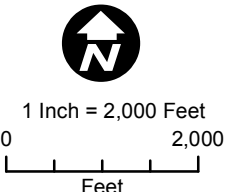


SANITARY SEWER SYSTEM
PAJARO COUNTY SANITATION DISTRICT

PAJARO, UNINCORPORATED MONTEREY COUNTY, CA

LEGEND

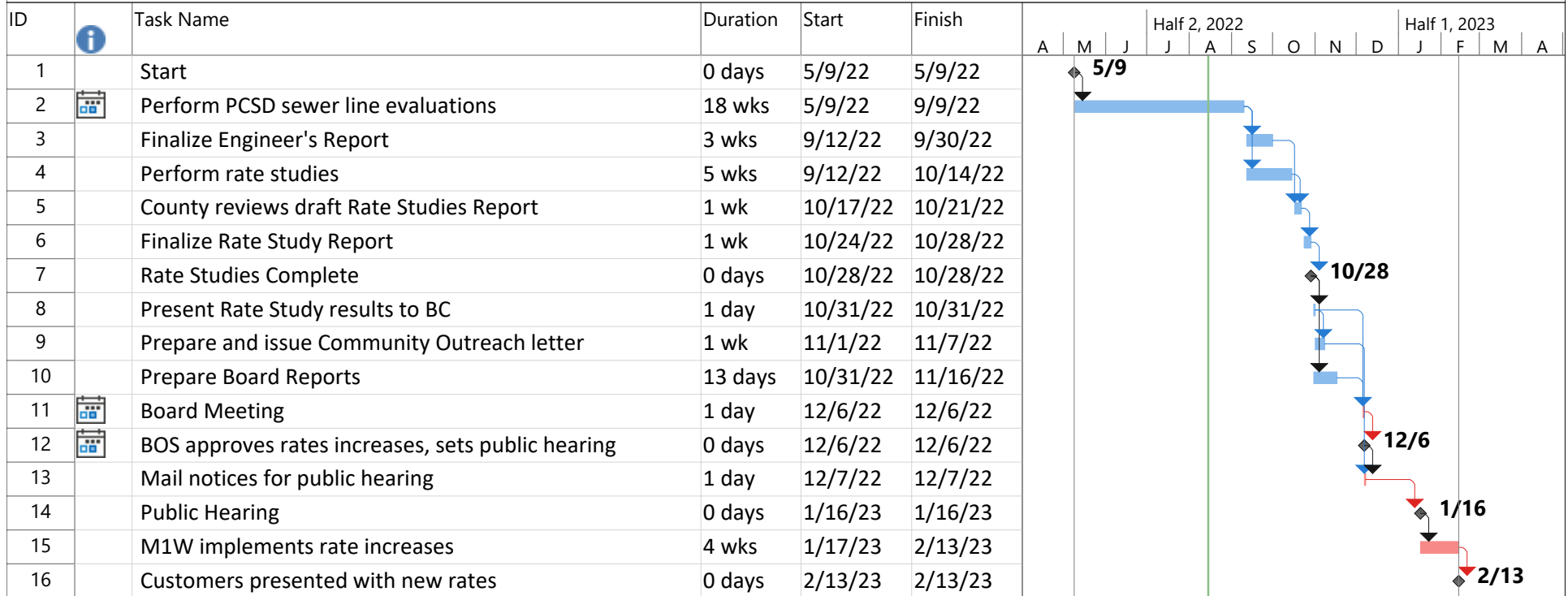
- SS Line
- SS Manhole
- Pump Station
- Parcel
- Pajaro County Sanitation District
- Monterey County Boundary



County of Monterey
Resource Management Agency
Public Works Department
Special Districts Division
Date: 3/10/16
Imagery Source: NAIP 2014



**Attachment B
Rate Study Schedule
Pajaro County Sanitation District**



<p>Note: Duration in work days Prepared by: Rauber, John</p>	Task		Inactive Summary		External Tasks	
	Split		Manual Task		External Milestone	
	Milestone		Duration-only		Deadline	
	Summary		Manual Summary Rollup		Critical	
	Project Summary		Manual Summary		Critical Split	
	Inactive Task		Start-only		Progress	
	Inactive Milestone		Finish-only		Manual Progress	

Attachment C**Financial Summary for FY2021-22 and FY2022-23 Forecast****Pajaro County Sanitation District**

	FY2022	FY2023 Forecasted
Beginning Fund Balance	257,045.98	4,959.62

Row Labels	Revenue Source Name	2022	2023
4010	Property Tax - Current Secured	274,431.49	260,981.00
4015	Property Tax - Current Unsecured	11,972.53	11,816.00
4025	Property Tax - Prior Secured	3,215.65	2,601.00
4030	Property Tax - Prior Unsecured	112.58	-
4035	Property Tax - Current Supplemental	6,670.96	4,141.00
4040	Property Tax - Prior Supplemental	361.27	350.00
4090	Other Property Taxes		-
4250	Road Privileges and Permits		300.00
4600	Investment Income	(236.05)	-
5030	Homeowners Property Tax Relief	1,106.34	1,273.00
5680	Sanitation Services	535,073.87	630,000.00
5750	Other Services and Non-Taxable Sales		-
5870	Miscellaneous Revenues		-
5900	Sale of Capital Assets		-
5940	Operating Transfers In	424,882.00	-
Grand Total		1,257,590.64	911,462.00

Row Labels	Object Name	2022	2023
6231	Communication Charges - External	5,074.45	9,022.00
6262	Insurance - General Liability (Recoverable)	200,000.04	306,403.00
6266	Insurance - Property	9,753.28	13,081.00
6311	Buildings & Improvements Maintenance - External	5,600.53	5,000.00
6312	Buildings & Improvements Maintenance - Internal		-
6321	Equipment Maintenance		-
6404	Courier Services - External		-
6411	Postage and Shipping		-
6414	Other Office Expense		-
6601	Accounting & Auditing Charges		-
6607	Legal Service - Internal	1,669.46	-
6609	Other Personnel Services	199,346.31	154,971.00
6613	Other Professional & Special Services	19,510.65	20,675.00
6801	Publications and Legal Notices		-
6821	Rents and Leases - Equipment		-
6835	Other Special Departmental Expenses	4,797.53	6,500.00
6864	Fleet Service Charge	317.26	88.00
6881	Utilities	25,085.67	38,336.28
6881	City of Watsonville	1,038,521.82	2,861,744.62
7302	Expenditure Transfers		-
7304	Interfund Reimbursement		-
7521	Buildings and Improvements		-
7531	Equipment		-
7551	Construction In Progress		-
7614	Operating Transfers Out		-
Grand Total		1,509,677.00	3,415,820.90
Ending Fund Balance		4,959.62	(2,499,399.28)

**Board of Supervisors
County of Monterey, State of California**

Resolution No. 22-0 _____

Adopt a resolution to authorize and direct the Auditor-Controller)
to:)
a. Authorize the reallocation of unspent American Rescue Plan)
Act of 2021 (ARPA) funds of \$1,178,797 to the Pajaro County)
Sanitation District)
b. Amend the Fiscal Year (FY) 2022-23 Adopted Budget for the)
General Fund, Fund 001, Other Financing Uses Appropriation)
Unit CAO017, to increase appropriations by \$1,320,603, where)
the financing source is Cannabis Tax Assignment (001-3132))
(4/5th vote required);)
c. Amend the FY 2022-23 Pajaro County Sanitation District)
Adopted Budget, Fund 151, Appropriation Unit PFP047, to)
increase appropriations by \$2,499,400, financed by an increase)
in ARPA revenues of \$1,178,797 and an operating transfer in of)
\$1,320,603 from General Fund, Fund 001, Other Financing Uses)
Appropriation Unit CAO017 to fund projected budget)
deficiency (4/5th vote required); and)
d. Transfer \$1,320,603 for the FY 2022-23 from General Fund,)
Fund 001, Other Financing Uses CAO017, to Pajaro County)
Sanitation District, Fund 151, Appropriation Unit PFP047,)
where General Fund Other Financing Uses has sufficient)
appropriations available to fund the transfer (4/5th vote)
required).)

WHEREAS, the Pajaro County Sanitation District (PCSD) is a dependent Special District which owns and operates a sewer collection system. On or about April 24, 2001, the PCSD entered into an agreement with the City of Watsonville (Agreement) which provides for the acceptance and treatment of raw sewage from the PCSD's sewer system into the City's Wastewater Treatment Plant (Plant). Per this Agreement, the PCSD is charged for its share of the Plant's operating and capital costs based on the percentage of total sewer received by the Plant. Operating and capital costs to maintain the Plant have increased over the years which has consequently increased costs to the PCSD;

WHEREAS, the PCSD is projected to incur costs greater than the amount budgeted in FY 2022-23;

WHEREAS, increased costs are primarily attributable to the significant increase in the City's treatment plant capital improvement costs (\$1,178,797), and the increasing strength of PCSD wastewater, which increases the fraction of the City's costs to operate and maintain the plant for which PCSD is responsible (\$1,320,603);

WHEREAS, the County has implemented several American Rescue Plan Act (ARPA) funded projects to address PCSD system deficiencies;

WHEREAS, concurrent with ARPA funded projects, an engineer's rate study will be prepared to support the adjustment of existing sewer rates to accommodate increased operation and maintenance costs and build a reserve for future capital costs;

WHEREAS, PWWP's goal is to sell the PCSD's sewer system and appurtenances and dissolve the PCSD; and

WHEREAS, the implementation of an engineer's rate study is necessary in the pursuit of this goal;

NOW, THEREFORE, BE IT RESOLVED THAT the Monterey County Board of Supervisors hereby approves the following:

- a. Authorize the reallocation of unspent American Rescue Plan Act of 2021 (ARPA) funds of \$1,178,797 to the Pajaro County Sanitation District
- b. Amend the Fiscal Year (FY) 2022-23 Adopted Budget for the General Fund, Fund 001, Other Financing Uses Appropriation Unit CAO017, to increase appropriations by \$1,320,603, where the financing source is Cannabis Tax Assignment (001-3132) (4/5th vote required);
- c. Amend the FY 2022-23 Pajaro County Sanitation District Adopted Budget, Fund 151, Appropriation Unit PFP047, to increase appropriations by \$2,499,400, financed by an increase in ARPA revenues of \$1,178,797 and an operating transfer in of \$1,320,603 from General Fund, Fund 001, Other Financing Uses Appropriation Unit CAO017 to fund projected budget deficiency (4/5th vote required); and
- d. Transfer \$1,320,603 for the FY 2022-23 from General Fund, Fund 001, Other Financing Uses CAO017, to Pajaro County Sanitation District, Fund 151, Appropriation Unit PFP047, where General Fund Other Financing Uses has sufficient appropriations available to fund the transfer (4/5th vote required).

PASSED AND ADOPTED upon motion of Supervisor _____, seconded by Supervisor _____ and carried this 27th day of September 2022, by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, 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 resolution of said Board of Supervisors duly made and entered in the minutes thereof Minute Book ____ for the meeting on September 27, 2022.

Dated: _____
File Number: _____

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy



Monterey County

Item No.17

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-905

September 27, 2022

Introduced: 9/19/2022

Current Status: Scheduled PM

Version: 1

Matter Type: General Agenda Item

- a. Conduct a public hearing on Urban County Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) for FY21/22;
- b. Consider the CAPER for FY21/22;
- c. Consider authorizing the Director of Housing and Community Development to submit the CAPER to the U.S. Department of Housing and Urban Development (HUD);
- d. Consider authorizing the Director of Housing and Community Development to make minor changes to the CAPER as needed in response to comments from HUD;
- e. Approve the Urban County CDBG CAPER for FY21/22 for submittal to the U.S. Department of Housing and Urban Development (HUD); and,
- f. Authorize the Director of Housing and Community Development to make minor changes to the CAPER as needed or in response to comments from HUD.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Conduct a public hearing on Urban County Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) for FY21/22;
- b. Consider the CAPER for FY21/22;
- c. Consider authorizing the Director of Housing and Community Development to submit the CAPER to the U.S. Department of Housing and Urban Development (HUD);
- d. Consider authorizing the Director of Housing and Community Development to make minor changes to the CAPER as needed in response to comments from HUD;
- e. Approve the Urban County CDBG CAPER for FY21/22 for submittal to the U.S. Department of Housing and Urban Development (HUD); and,
- f. Authorize the Director of Housing and Community Development to make minor changes to the CAPER as needed or in response to comments from HUD.

SUMMARY:

In 2012, the County of Monterey created a HUD Urban County Consortium to become a CDBG Entitlement community. To remain eligible for HUD CDBG funds, the County is required to conduct two public hearings annually on CDBG funding priorities and goals. The County adopts an Action Plan annually in May following a public comment period and public hearing. A second hearing is held to consider a Consolidated Annual Performance and Evaluation Report, known as the CAPER. The CAPER being considered by the Board today summarizes accomplishments for the FY21/22 CAPER.

CDBG funds may be used to carry out a wide range of community development activities directed toward revitalizing neighborhoods, economic development, and providing improved community facilities and services. As an Entitlement community, the County and its consortium members must give maximum feasible priority to activities which benefit low- and moderate-income persons. Other eligible activities may aid in the prevention or elimination of slums or blight and activities that meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. CDBG funds may not be used for activities which do not meet one of these national objectives.

In FY21/22, the County was allocated \$1,360,242 in regular CDBG funding and \$202,800 in funds from prior years projects that were unused. CDBG regulations cap the amount of grant funding that may be used for administrative costs to 20% or \$272,048 toward program administration based on the FY21/22 allocation and 15% or \$204,036 toward public service projects.

DISCUSSION:

The Consolidated Annual Performance and Evaluation Report (CAPER) closes the 2021-22 fiscal year, July 1, 2021-June 30, 2022, by summarizing the accomplishments and the progress the Urban County made towards the goals and objectives it established in its Annual Action Plan (AAP). The FY21/22 AAP was approved by the Board of Supervisors on May 11, 2021, and amended on January 25, 2022. The AAP allocated CDBG funds in the amount of \$1,084,640 for three public facility projects in South Monterey County; \$204,036 for nine public service activities; and, \$272,048 for general program administration.

The County's Consolidated Plan, which is prepared every 5-years and guides development of the AAPs, identified seven programmatic areas for CDBG funding priorities to primarily benefit low-moderate income communities. These programmatic areas are: Affordable Housing; Fair Housing; Homeless and Homeless Prevention Services; Infrastructure Improvements; Public Facilities; Public Services and General Program Administration. The Urban County's accomplishments in each of these areas during FY21/22 is summarized below.

Public Facilities - The Urban County allocated \$1,004,140 for improvements to community sidewalks in Castroville and San Lucas and \$80,500 for Hayes housing refit for the Veterans Transition Center. All three projects are still in progress and incomplete.

Public Services - During FY21/22, the Urban County allocated approximately \$204,036 to support a wide range of public services. Services included youth leadership development programs in Gonzales, Greenfield, and North County; providing food security and companionship in North County and the Salinas Valley; and programs to help maintain the independence and quality of life for the disabled and seniors. These services benefitted an estimated 3,119 primarily low-moderate income Monterey County residents last year.

Fair Housing - The Urban County retained the services of the Eden Council for Hope and Opportunity (ECHO Housing) and Legal Services for Seniors (LSS) to provide fair housing activities during FY21/22. Both agencies assisted approximately 738 people with fair housing services and

tenant/landlord dispute resolution. The Tenant/Landlord Counseling Program provides information to tenants and landlords on their housing rights and responsibilities. Additionally, ECHO has trained mediators to assist in resolving housing disputes through conciliation and mediation. The primary objective of the program is to build awareness of housing laws and prevent homelessness. This has become particularly important during COVID and additional funds were allocated to both agencies to assist with the COVID crisis. ECHO Housing conducted weekly webinars in English and Spanish throughout the County.

Homeless and Homeless Prevention Services - The Urban County invested \$25,000 to support life skills counseling for residents of the Rancho Cielo Youth (18-24) Campus's Transitional Housing Program through the Public Service allocation.

The County budgets the maximum amount possible for general administration even if it may not need the full amount. Any unused public service or general administration funds may only be used for affordable housing, community facilities, or public facilities in a subsequent year. The Urban County will rollover \$60,000 from these sources to FY22/23. As approved by the Board when it adopted the 2022-2023 Annual Action Plan, these funds will be used to fund construction of sidewalks in front of Aromas School.

OTHER AGENCY INVOLVEMENT:

The cities of Del Rey Oaks, Gonzales, Greenfield, and Sand City have partnered with the County to be designated as an Urban County.

FINANCING:

This action does not change the current FY2022-23 appropriations, revenues, or positions as it reports on outcomes for the prior fiscal year. The HUD grant is an annual agreement. If the County complies with grant requirements, the County may elect to continue to receive annual entitlement funding, subject to the federal budget process.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Authorizing the Urban County to submit the FY21/22 CAPER to HUD by September 30, 2022, is required to keep the Urban County in compliance with HUD CDBG requirements. Continued eligibility for the Urban County designation will allow the County to continue to receive the Entitlement Allocation of CDBG from HUD, approximately \$1.35 million annually.

☒ Economic Development

☐ Administration

☒ Health & Human Services

☒ Infrastructure

☒ Public Safety

Prepared by: Dawn M Yonemitsu, Management Analyst II, x5387

Reviewed by: Darby Marshall, Darby Marshall, Housing Program Manager (WOC), x5391

Approved by: Erik Lundquist, AICP, Director of Housing and Community Development

Attachments:

Attachment A: Draft Consolidated Ann Perf and Eval Report for FY 2021-22



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-905

September 27, 2022

Introduced: 9/19/2022

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Conduct a public hearing on Urban County Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) for FY21/22;
- b. Consider the CAPER for FY21/22;
- c. Consider authorizing the Director of Housing and Community Development to submit the CAPER to the U.S. Department of Housing and Urban Development (HUD);
- d. Consider authorizing the Director of Housing and Community Development to make minor changes to the CAPER as needed in response to comments from HUD;
- e. Approve the Urban County CDBG CAPER for FY21/22 for submittal to the U.S. Department of Housing and Urban Development (HUD); and,
- f. Authorize the Director of Housing and Community Development to make minor changes to the CAPER as needed or in response to comments from HUD.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Conduct a public hearing on Urban County Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) for FY21/22;
- b. Consider the CAPER for FY21/22;
- c. Consider authorizing the Director of Housing and Community Development to submit the CAPER to the U.S. Department of Housing and Urban Development (HUD);
- d. Consider authorizing the Director of Housing and Community Development to make minor changes to the CAPER as needed in response to comments from HUD;
- e. Approve the Urban County CDBG CAPER for FY21/22 for submittal to the U.S. Department of Housing and Urban Development (HUD); and,
- f. Authorize the Director of Housing and Community Development to make minor changes to the CAPER as needed or in response to comments from HUD.

SUMMARY:

In 2012, the County of Monterey created a HUD Urban County Consortium to become a CDBG Entitlement community. To remain eligible for HUD CDBG funds, the County is required to conduct two public hearings annually on CDBG funding priorities and goals. The County adopts an Action Plan annually in May following a public comment period and public hearing. A second hearing is held to consider a Consolidated Annual Performance and Evaluation Report, known as the CAPER. The CAPER being considered by the Board today summarizes accomplishments for the FY21/22 CAPER.

CDBG funds may be used to carry out a wide range of community development activities directed toward revitalizing neighborhoods, economic development, and providing improved community facilities and services. As an Entitlement community, the County and its consortium members must give maximum feasible priority to activities which benefit low- and moderate-income persons. Other eligible activities may aid in the prevention or elimination of slums or blight and activities that meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. CDBG funds may not be used for activities which do not meet one of these national objectives.

In FY21/22, the County was allocated \$1,360,242 in regular CDBG funding and \$202,800 in funds from prior years projects that were unused. CDBG regulations cap the amount of grant funding that may be used for administrative costs to 20% or \$272,048 toward program administration based on the FY21/22 allocation and 15% or \$204,036 toward public service projects.

DISCUSSION:

The Consolidated Annual Performance and Evaluation Report (CAPER) closes the 2021-22 fiscal year, July 1, 2021-June 30, 2022, by summarizing the accomplishments and the progress the Urban County made towards the goals and objectives it established in its Annual Action Plan (AAP). The FY21/22 AAP was approved by the Board of Supervisors on May 11, 2021, and amended on January 25, 2022. The AAP allocated CDBG funds in the amount of \$1,084,640 for three public facility projects in South Monterey County; \$204,036 for nine public service activities; and, \$272,048 for general program administration.

The County's Consolidated Plan, which is prepared every 5-years and guides development of the AAPs, identified seven programmatic areas for CDBG funding priorities to primarily benefit low-moderate income communities. These programmatic areas are: Affordable Housing; Fair Housing; Homeless and Homeless Prevention Services; Infrastructure Improvements; Public Facilities; Public Services and General Program Administration. The Urban County's accomplishments in each of these areas during FY21/22 is summarized below.

Public Facilities - The Urban County allocated \$1,004,140 for improvements to community sidewalks in Castroville and San Lucas and \$80,500 for Hayes housing refit for the Veterans Transition Center. All three projects are still in progress and incomplete.

Public Services - During FY21/22, the Urban County allocated approximately \$204,036 to support a wide range of public services. Services included youth leadership development programs in Gonzales, Greenfield, and North County; providing food security and companionship in North County and the Salinas Valley; and programs to help maintain the independence and quality of life for the disabled and seniors. These services benefitted an estimated 3,119 primarily low-moderate income Monterey County residents last year.

Fair Housing - The Urban County retained the services of the Eden Council for Hope and Opportunity (ECHO Housing) and Legal Services for Seniors (LSS) to provide fair housing activities during FY21/22. Both agencies assisted approximately 738 people with fair housing services and

Legistar File Number: 22-905

tenant/landlord dispute resolution. The Tenant/Landlord Counseling Program provides information to tenants and landlords on their housing rights and responsibilities. Additionally, ECHO has trained mediators to assist in resolving housing disputes through conciliation and mediation. The primary objective of the program is to build awareness of housing laws and prevent homelessness. This has become particularly important during COVID and additional funds were allocated to both agencies to assist with the COVID crisis. ECHO Housing conducted weekly webinars in English and Spanish throughout the County.

Homeless and Homeless Prevention Services - The Urban County invested \$25,000 to support life skills counseling for residents of the Rancho Cielo Youth (18-24) Campus's Transitional Housing Program through the Public Service allocation.

The County budgets the maximum amount possible for general administration even if it may not need the full amount. Any unused public service or general administration funds may only be used for affordable housing, community facilities, or public facilities in a subsequent year. The Urban County will rollover \$60,000 from these sources to FY22/23. As approved by the Board when it adopted the 2022-2023 Annual Action Plan, these funds will be used to fund construction of sidewalks in front of Aromas School.

OTHER AGENCY INVOLVEMENT:

The cities of Del Rey Oaks, Gonzales, Greenfield, and Sand City have partnered with the County to be designated as an Urban County.

FINANCING:

This action does not change the current FY2022-23 appropriations, revenues, or positions as it reports on outcomes for the prior fiscal year. The HUD grant is an annual agreement. If the County complies with grant requirements, the County may elect to continue to receive annual entitlement funding, subject to the federal budget process.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Authorizing the Urban County to submit the FY21/22 CAPER to HUD by September 30, 2022, is required to keep the Urban County in compliance with HUD CDBG requirements. Continued eligibility for the Urban County designation will allow the County to continue to receive the Entitlement Allocation of CDBG from HUD, approximately \$1.35 million annually.

- ☒ Economic Development
- ☐ Administration
- ☒ Health & Human Services
- ☒ Infrastructure
- ☒ Public Safety

Prepared by: Dawn M Yonemitsu, Management Analyst II, x5387

Reviewed by: Darby Marshall, Darby Marshall, Housing Program Manager (WOC), x5391

Approved by: Erik Lundquist, AICP, Director of Housing and Community Development

DS
El

Attachments:

Attachment A: Draft Consolidated Ann Perf and Eval Report for FY 2021-22

2021-2022
Community Development Block Grant
Consolidated Annual Performance and
Evaluation Report



To Be Considered by the
Monterey County Board of Supervisors
on September 27, 2022

Monterey County Urban County Consortium Members

City of Del Rey Oaks
City of Gonzales

City of Greenfield
City of Sand City

County of Monterey

Submit all comments and/or questions regarding this document to:
Darby Marshall, Redevelopment & Housing Analyst II
1441 Schilling Place, 2nd Floor, South
Salinas, CA 93901
MarshallD@co.monterey.ca.us
(831) 755-5391 (Facsimile)

TABLE OF CONTENTS

CR-05 – Goals and Outcomes	1
CR-10 – Racial and Ethnic Composition of Families Assisted	6
CR-15 – Resources and Investments 91.520(a)	7
CR-20 – Affordable Housing 91.520(b)	9
CR-25 – Homeless and Other Special Needs 91.220(d, e); 91.320 (d, e); 91.520 (c)	11
CR-30 – Public Housing 91.220(h); 91.320(j).....	13
CR-35 – Other Actions 91.220(j, k); 91.20 (l, j))	14
CR-40 – Monitoring 91.220; 91.320)	17
Citizen Participation Plan 91.105(d); 91.115(d).....	18
CR-45 – CDBG 91.520(c)	19
Appendices	
A. Public Participation	
B. IDIS Report	

CR05 - Goals and Outcomes

Progress the jurisdiction has made in carrying out its strategic plan and its action plan. 91.520(a)

Program Year (PY) 2021/22, is the second year of the 2020-2024 Monterey Urban Count Consolidated Plan. The Urban County used the allocation of \$1,360,242 CDBG Entitlement (CDBG) funds and \$10,000 in program income to support programs, services, and projects that contribute to a decent housing and suitable living environment for low and moderate income persons and households.

In addition, a total of \$1,865,867 in funds allocated by the CARES Act (CDBG-CV) were used by the Urban County to prevent, prepare for, and respond to the coronavirus pandemic. The first CARES Act allocation (CV1) was \$816,541 and the second (CV3) was \$1,049,326. CDBG-CV programs are part of the PY 2019/20 and 2020/21 Annual Action Plans.

The Urban County's 2020-2024 Consolidated Plan identified the priorities below as some of the most critical needs in the Urban County:

- Affordable Housing
- Fair Housing
- Homeless Services and Homelessness Prevention
- Infrastructure Improvements
- Public Facilities
- Public Services

Comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives. 91.520(g)

The major activities undertaken by the Urban County using CDBG Entitlement funding and CDBG-CV funding are listed below:

CDBG ENTITLEMENT ACTIVITIES

- A grant to Rancho Cielo to assist in the operations of the Transitional Housing Village, which helped 14 residents aged 18-24 with counseling support.
- Grants to two agencies to provide Fair Housing services; Eden Council for Hope and Opportunity (ECHO) to provide information and education to renters and rental housing owners, and Legal Services for Seniors (LSS) to serve seniors in the unincorporated County and the cities of Gonzales, Greenfield, and Sand City. Together, these programs served 738 residents.
- Funding the curb, gutter, and sidewalk repair in San Lucas and funding sidewalk repair in the area surrounding Castroville Recreation Center. Both projects are multi-year and therefore the accomplishments are not yet reported.
- Providing grants to six additional local-serving non-profit agencies, which benefitted 3,119 residents. The grants funded used CDBG funds to address food services, youth development, housing for the disabled, and senior services.

The specific expenditures and accomplishments for FY 21/22 Entitlement funds are shown in Table 1.

CDBG-CV ACTIVITIES

All activities undertaken by the Urban County using CDBG-CV funds were designed to prevent, prepare for, and respond to the coronavirus pandemic. Because CDBG-CV funds have different timelines than CDBG Entitlement funds, the accomplishments reported are cumulative and represent accomplishments from the beginning of the grant through June 30, 2022.

- Assistance to address the impacts of the pandemic on businesses in the City of Gonzales. Two full-time jobs were created through a CDBG-CV grant to the City of Gonzales for a small business assistance program.
- Improved access to information about resources related to the pandemic through a grant to the United Way for their 211 Service. This project provided critical contact and information to 3,680 residents of the Urban County. This project is completed.
- Additional funding for Meals on Wheels – Salinas Valley Home Delivered Meals Program to meet the increased food services needs for seniors brought on by the effects of the pandemic. This project served 342 Urban County residents who had difficulty obtaining sufficient nutritious food due to the impact of the pandemic. This project is on-going.
- Additional funding for ECHO to meet the increase in fair housing service needs for those whose housing had been impacted by the

pandemic. This project is complete, but while in operation brought important fair housing services to 13 Urban County residents.

- A grant to the local Food Bank to acquire additional food for distribution and a refrigerated food truck to meet the increased need for food services brought on by the effects of the pandemic. This funding allowed the Food Bank of Monterey County to address the pandemic by providing 1,677 additional Urban County residents with affordable, nutritious food. This project is on-going.
- Additional funding for Legal Services to provide workshops and direct legal services to seniors impacted by the pandemic in the unincorporated County, and the cities of Gonzales, Greenfield, and Sand City. This funding provided 91 residents with free legal services to address the tenancy and fair housing issues created by the pandemic. This project is on-going.
- Funding for the Court Appointed Special Advocate program (CASA) which provides support and assistance as youth navigate through the social services and legal system. This program is on-going, and to date has served 42 youth.
- A grant to the Boys & Girls Club to provide youth with support as they enter the recovery phase of the pandemic. This program served 492 youth. This project is complete.

The goals and accomplishments shown in Table 1 on the following pages include the goals and accomplishments related to the City's CDBG-CV funds.

Comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives. 91.520(g)

Goal	Category	Source / Amount	Indicator	Unit of Measure	Expected Strategic Plan	Actual – Strategic Plan	Percent Complete	Expected Program Year	Actual – Program Year	Percent Complete
Affordable Housing	Affordable Housing	CDBG: \$0.00	Rental units rehabilitated	Household Housing Unit	5	0	0.00%	0	0	N/A
Affordable Housing	Affordable Housing	CDBG: \$0.00	Homeowner Housing Rehabilitated	Household Housing Unit	5	0	0.00%	0	0	N/A

Goal	Category	Source / Amount	Indicator	Unit of Measure	Expected Strategic Plan	Actual – Strategic Plan	Percent Complete	Expected Program Year	Actual – Program Year	Percent Complete
Fair Housing	Non-Homeless Special Needs Fair Housing	CDBG: \$25,000 CDBG-CV: \$14,981	Public service activities other than Low/Moderate Income Housing Benefit	Persons Assisted	1600	1431	89.43%	200	635	317%
Homelessness and Homeless Prevention Services	Homeless	CDBG-CV: \$42,000	Public service activities other than Low/Moderate Income Housing Benefit	Persons Assisted	70	48	60%	40	42	105%
Homelessness and Homeless Prevention Services	Homeless	CDBG: \$15,798	Public service activities for Low/Moderate Income Housing Benefit	Persons Assisted	00	6	600%	6	14	233%
Homelessness and Homeless Prevention Services	Homeless	CDBG: \$0.00	Homelessness Prevention	Persons Assisted	15	0	0.00%	0	0	N/A
Infrastructure Improvements	Non-Housing Community Development	CDBG: \$0.00	Public Facility or Infrastructure Activities for Low/Moderate Income Housing Benefit	Households Assisted	20	0	0.00%	0	0	N/A

Goal	Category	Source / Amount	Indicator	Unit of Measure	Expected Strategic Plan	Actual – Strategic Plan	Percent Complete	Expected Program Year	Actual – Program Year	Percent Complete
Infrastructure Improvements	Non-Housing Community Development	CDBG: \$110,000	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit	Persons Assisted	516	0	0.00%	0	0	N/A
Public Facilities		CDBG: \$894,190	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit	Persons Assisted	10000	0	0.00%	1	0	0.00%
Public Facilities		CDBG: \$0.00	Overnight/Emergency Shelter/Transitional Housing Beds added	Beds	4	0	0.00%	0	0	N/A
Public Services		CDBG: \$120,575 CDBG-CV: \$1,294,522	Public service activities other than Low/Moderate Income Housing Benefit	Persons Assisted	6250	1838	29.40%	1589	1838	115.67%

Table 1 - Accomplishments – Program Year & Strategic Plan to Date

Assess how the jurisdiction's use of funds, particularly CDBG, addresses the priorities and specific objectives identified in the plan, giving special attention to the highest priority activities identified.

Overall, the CDBG-funded activities met the goals set. All activities undertaken in the PY 2021/22 Annual Action Plan directly addressed high priorities and specific objectives identified in the 2020-2024 Consolidated Plan. In many of the CDBG-funded activities, the accomplishments exceeded the goals which were set. A few of the most significant of those are listed below:

- Legal Services for Seniors exceed the goal of serving 200 seniors by over 200%
- Gonzales Senior Outreach exceed the goal of 160 by 115%
- The Pajaro Park Program exceeded their goal of serving 200 youth aged 3-15 by over 800%
- The Boys & Girls Club of Monterey County exceeded their goal of serving 350 youth in Gonzales and Camphora Highlands by 50%

Overall, the programs using CDBG-CV funds significantly exceeded the goals set. Some of the most successful programs using CDBG-CV funds to address the impacts of the pandemic are shown below. All program accomplishments are cumulative from the start of the individual program.

- The Boys & Girls Club exceeded their goal of serving 375 youth by 30%
- The Meals on Wheels Program exceeded their goal of serving 25 seniors by over 1,200%
- The Food Bank was able to exceed their goal of serving 250 residents by 571%

CR-10 - Racial and Ethnic composition of families assisted

Describe the families assisted (including the racial and ethnic status of families assisted).

91.520(a)

	CDBG
White	4,512
Black or African American	38
Asian	131
American Indian or American Native	23
Native Hawaiian or Other Pacific Islander	19
Total	4,723
Hispanic	49,96
Not Hispanic	1,406

Table 2 – Table of assistance to racial and ethnic populations by source of funds

Narrative

The information in Table 2 represents both CDBG and CDBG-CV funded programs. Overall, 10,082 persons/households were assisted in CDBG and CDBG-CV programs, however the United Way 211 program was based on the National Objective of Urgent Need, so no race or ethnicity data was collected on the 3,680 residents served. Of the 6,402 for whom race and ethnicity data was collected, 1679 identified themselves as belonging to racial categories not provided for in Table 2. As a result, in only 4,723 residents are reported in the race section of the table. Of the 6,402 served for whom race and ethnicity data was collected, 4,996 (78 percent) identified themselves as Hispanic.

According to the 2019 American Community Survey, 82.8 percent of the Monterey County population as a whole is White, 3.4 percent Black, 6.7 percent Asian, 2.6 percent American Indian/Alaska Native, and 0.6 percent Native Hawaiian or Other Pacific Islander. These percentages are inclusive of all residents inside Monterey County, including the CDBG Entitlement jurisdictions within the County boundaries, and does not necessarily represent the racial make up of the service area of the Urban County.

The percentage of Whites served was approximately 95.5 percent which is almost 13 percent higher than the percentage of Whites in the County of Monterey overall. The percentage of Blacks, Asians, American Indian/American Native, and Native Hawaiian or Other Pacific Islander served was significantly lower than the percentages in the County of Monterey overall. As noted above, this may be because the statistics for Monterey County include the Entitlement jurisdictions located within its boundaries, not just the Urban County's service area.

CR-15 - Resources and Investments 91.520(a)

Identify the resources made available

Source of Funds	Source	Resources Made Available	Amount Expended During Program Year
CDBG	public - federal	\$1,360,242	\$1,317,846
Program Income	public – federal	\$24,849	\$6,238
CDBG-CV	public - federal	\$1,865,837	\$1,075,519

Table 3 - Resources Made Available

Narrative

For PY 2021/22 the Urban County received \$1,360,242 in CDBG Entitlement funds and had available \$24,849 in program income. In March 2020, Congress signed the CARES Act into law, authorizing additional CDBG funds to address the impacts of the pandemic. The Urban County was allocated \$816,541 initially (CV1) and received a second allocation of \$1,049,326 (CV3), for a total of \$1,865,837. These funds were identified as Expected Resources in the AP-15 Expected Resources section of the PY 2019/20 Annual Action Plan, but no activities were initiated with CDBG-CV funds until PY 2020/21. Additionally, the CR-15 – Resources and Investments table in the PY 2019/20 CAPER did not show the CDBG-CV funds. For that reason, they are included CR-15 – Resources and Investments (Table 3) above. CDBG-CV funds have longer timelines than CDBG Entitlement funds and therefore, the *Amount Expended During the Program Year* column for CDBG-CV in Table 3 indicates all CDBG-CV funds expended from the inception of the program through June 30, 2022.

Identify the geographic distribution and location of investments

Target Area	Planned Percentage of Allocation	Actual Percentage of Allocation	Narrative Description
N/A	N/A	N/A	N/A

Table 4 – Identify the geographic distribution and location of investments

Narrative

The Urban County did not allocate funds to Target Areas. Some activities which took place in a specific area, such as the Pajaro Parks program, were likely to attract mostly families in the immediate vicinity, which was a low/mod area. However, the program was open to all those who wished to participate. In this way, all activities were available to all residents of the Urban County.

Leveraging

Explain how federal funds leveraged additional resources (private, state and local funds), including a description of how matching requirements were satisfied, as well as how any publicly owned land or property located within the jurisdiction that were used to address the needs identified in the plan.

During PY 2021/22, the Urban County funded six programs with CDBG Entitlement funds, and seven new programs with CDBG-CV funds. Private funding from foundations, corporations, and individuals, as well as a variety of state and local funding sources, leveraged the CDBG and CDBG-CV funds each of those agencies received. As part of the application and reporting process, subrecipients report their total activity cost and the sources of funding. Based on that information, CDBG funding accounted for only a fraction of the activity costs reported by the subrecipients.

In PY 2021/22 a permanent shelter located in Salinas was completed – the Salinas Share Center. This center has 124 beds and will offer wrap around services for the homeless. The Salinas Share Center served 206 in PY 2021/22. Funding for this project included City of Salinas ESG, ESG-CV, Measure G CIP, and SESG. The County contributed funds from HHAP 1 and 2, HHAP 2 OPS, HHAP RRH 2 and 3, as well as funds from a number of other sources.

The Urban County also worked with the City of Seaside, another CDBG Entitlement jurisdiction, for the development a homeless shelter on city owned land which will serve the homeless in the Monterey Peninsula area. The shelter was completed in PY 2021/22 and can house 35 individuals. Six rooms are dedicated to single women. In addition, the Urban County will provide \$100,000 of HHAP-3 funding for the operation of the shelter.

CR-20 - Affordable Housing 91.520(b)

Evaluation of the jurisdiction's progress in providing affordable housing, including the number and types of families served, the number of extremely low-income, low-income, moderate-income, and middle-income persons served.

	One-Year Goal	Actual
Number of Homeless households to be provided affordable housing units	0	0
Number of Non-Homeless households to be provided affordable housing units	0	0
Number of Special-Needs households to be provided affordable housing units	0	0
Total	0	0

Table 5 – Number of Households

	One-Year Goal	Actual
Number of households supported through Rental Assistance	0	0
Number of households supported through The Production of New Units	0	0
Number of households supported through Rehab of Existing Units	0	0
Number of households supported through Acquisition of Existing Units	0	0
Total	0	0

Table 6 – Number of Households Supported

Discuss the difference between goals and outcomes and problems encountered in meeting these goals.

The Urban County does not receive Emergency Shelter Grants or HOME Program funds from HUD, therefore the Urban County did not establish extensive goals related to developing affordable housing in the 2020-2024 Consolidated Plan. In addition, the continued impacts of the pandemic have resulted in a need to shift resources to address more food services, fair housing services, and other public services. Therefore, no goals were set for the use of CDBG or CDBG-CV funds for affordable housing in the PY 2021/22 Annual Action Plan.

The Urban County continues to face several significant challenges to providing affordable housing. These challenges include and a lack of publicly owned land where the County can control the type and quantity of affordable housing to be built, infrastructure and resource constraints in areas identified for

development, not having a stable source of financing to support construction and operation of affordable housing or shelters.

Discuss how these outcomes will impact future annual action plans.

Despite limited resources, the Urban County will also continue to support the development of new affordable housing projects. In PY 2019/20, the Urban County provided CDBG funds to assist a housing developer with off-site improvements that were necessary for the development of a 200-unit affordable housing development (Greenfield Commons) in Greenfield. Construction is expected to start in January of 2023. The Urban County will continue to focus most of its resources on keeping low and moderate households in the homes in which they already reside.

Include the number of extremely low-income, low-income, and moderate-income persons served by each activity where information on income by family size is required to determine the eligibility of the activity.

Number of Households Served	CDBG Actual	HOME Actual
Extremely Low-income	4	0
Low-income	8	0
Moderate-income	2	0
Total	14	0

Table 7 – Number of Households Served

Narrative Information

The households shown in the table above were residents of the Cielo Transitional Housing Village project that was provided with CDBG assistance in PY 2021/22.

CR-25 - Homeless and Other Special Needs 91.220(d, e); 91.320(d, e); 91.520(c)

Evaluate the jurisdiction's progress in meeting its specific objectives for reducing and ending homelessness through:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The Urban County, and County of Monterey work primarily through third parties to conduct regular outreach and assessment of homeless persons. These organizations include the Coalition of Homeless Service Providers, Community Human Services, and the Veterans Transition Center.

The most recent Point-in-Time (PIT) homeless count of Monterey County, conducted by The Coalition of Homeless Service Providers, took place in February 2022. The analysis of the PIT count in the 2022 Monterey Homeless Count and Survey Comprehensive Report (Report) identified approximately 2,047 homeless persons throughout Monterey County. This represents an overall reduction of 18% from the last PIT count in 2019, however, the number of unsheltered homeless increased from 18.9% to 33.6%. The number of unsheltered homeless was 686 and the number of sheltered homeless was 1354. The estimated counts of the four HUD-identified subpopulations in Monterey County were: chronically homeless individuals (686 persons- 33.6%), homeless veterans (154 persons – 7.5%), members of homeless families with children (347 persons – 17.0%), and unaccompanied children and youth under age 25 years (233 persons 11.4%).

The Homeless Census found that approximately 15.0% of the homeless population lives in the unincorporated areas of the County (306 persons) and 20.7% live in jurisdictions participating in the Urban County (423 persons and 20.7%) while 64.6% (1,318 persons) live in the entitlement communities of Monterey, Salinas, and Seaside. The wide dispersion of homeless persons throughout the unincorporated areas makes it challenging for the Urban County to effectively use CDBG funding to provide outreach and services to the homeless.

As noted above, the basic count indicated that the overall number of homeless persons decreased between 2019 and 2022. The Report noted the subpopulations most at-risk were: 1. Individuals with disabilities experiencing chronic homelessness; 2. Veterans experiencing homelessness; 3. Families with children experiencing homelessness; and 4. Children and youth under age 25 years experiencing homelessness. According to the Report, in the 2022 PIT count each of these subpopulations declined from the numbers in 2019.

Addressing the emergency shelter and transitional housing needs of homeless persons

While many of the indicators in the Report were encouraging, it should be noted that the percent of individuals who were chronically homeless (as defined in the Report), rose from 63% in the 2019 PIT count to 85% in the 2022 PIT count. As noted earlier in this section, the number of unsheltered homeless rose from 18.9% in 2019 to 33.6% in 2022 and the unsheltered subpopulation of those living outdoors, on the

street, in parks, or in encampments rose from 40% in 2019 to 62% in 2022. These statistics indicate a greater need for emergency shelter and transitional housing to assist those who are chronically homeless, or who are unsheltered, make the transition to housing stability. This information became available after the major planning for PY 2022/23 was complete, but the Urban County will use this new information to plan for programs to address these issues in PY 2023/24.

In PY 2021/22, the Urban County allocated CDBG funds to the Rancho Cielo Transitional Housing Village, which served 14 homeless households. Also, as noted in the prior section, the Urban County also worked with the City of Seaside, another CDBG Entitlement jurisdiction, for the development a 35-bed which was completed in PY 2021/22. The homeless shelter is located on city owned land and will serve the homeless in the Monterey Peninsula area. In addition, the Urban County will provide \$100,000 of HHAP-3 funding for the operation of the shelter.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: likely to become homeless after being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

The Report noted above did not address those at-risk of homelessness due to being discharged from publicly funded institutions and systems of care and/or receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs. However, in 2019, the Coalition of Homeless Services Providers prepared an update to the October 2011 Lead Me Home - The Game Plan for Housing Homeless Persons in Monterey and San Benito Counties (Plan). County partners involved in updating the Plan included a wide-range of public and private entities that include CA506 - Salinas/Monterey, San Benito Counties Continuum of Care, affordable housing developers, community clinics and health centers, other health care providers, educational institutions, faith-based organizations, housing and homeless services providers, health plans, local government, probation/criminal justice, non-profit agencies, private foundations, public housing authorities, people with lived experience of homelessness, and service providers for families, seniors, survivors of domestic violence, veterans, and youth. The Plan update set five priorities: 1: Assure Access to Adequate Housing, 2: Provide Services, Keep People Housed, 3: Support Economic Stability, 4: Return to Housing, and 5: Efforts to Prevent Criminalization of Homelessness.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

During PY 2021/22 the Urban County funded the Rancho Cielo Transitional Housing Village to provide households with transitional housing.

DRAFT

CR-30 - Public Housing 91.220(h); 91.320(j)

Actions taken to address the needs of public housing

The Housing Authority of Monterey County (HACM) and its affiliated Housing Development Corporation (HDC) own and operate 20 housing developments, with more than 1,000-units throughout Monterey County. Most of these developments are in the communities of Monterey and Salinas. There are seven properties located in the Urban County, three of which have 70-units for households headed by seniors and/or the disabled and 77 units for farmworker families. There are also two developments in the City of Gonzales with 32 units, two in King City with 123 units, one in Greenfield with 50 units, one in Marina with 56 units, and one in Chualar with 29 units.

Actions taken to encourage public housing residents to become more involved in management and participate in homeownership

The HACM/HDC requires or promotes a range of activities to increase resident involvement in its housing program including:

- Requiring each adult household member to participate in eight hours of community service;
- Encouraging the creation of neighborhood watch programs;
- Conducting tenant meetings to receive input from residents; and,
- Conducting specific meetings before the HACM Board of Directors regarding tenant involvement.

The HACM/HDC do not have programs that encourage or prepare residents to become homeowners.

Actions taken to provide assistance to troubled PHAs

The Housing Authority of the County of Monterey is not designated as “troubled” and did not require assistance from the Urban County.

CR-35 - Other Actions 91.220(j)-(k); 91.320(i)-(j)

Actions taken to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment. 91.220 (j); 91.320 (i)

The Urban County's Housing Element identifies the various constraints which impact the development of housing, especially affordable housing. Many of the public policies designed to protect workers and the environment can have the unintended consequence of significantly increasing the cost of construction, making it that much more difficult to develop affordable housing. Most of those policies are outside of the Urban County's control.

Under California state law, a jurisdiction's General Plan guides all land use decisions. The Urban County's current approved Housing Element of the General Plan (Housing Element) will be in place through 2022-2023. The Housing Element requires that jurisdictions demonstrate that they have zoned enough land for development of affordable housing. The cities of Gonzales, Del Rey Oaks, Greenfield, Sand City also have Housing Elements which meet State requirements.

In order to ameliorate the negative effects of public policies on the development of affordable housing, the Urban County included a number of programs in the Housing Element designed to proactively encourage the development of affordable housing, including the Affordable Housing Overlay, Inclusionary Housing Policy, and Density Bonus Ordinance.

Actions taken to address obstacles to meeting underserved needs. 91.220(k); 91.320(j)

The lack of funding is the most critical obstacle to meeting underserved needs. As noted in the 2020-2024 Consolidated Plan, the Urban County's most underserved populations are the homeless and youth. The Urban County will continue to foster relationships with the existing network of public and nonprofit agencies to deliver a variety of housing and supportive services for the homeless and youth in the community and help bridge the funding gap by allocating CDBG funds to these agencies.

As indicated in the Report noted earlier in this section the underserved populations tend to be concentrated in the other entitlement communities of Monterey, Salinas, and Seaside. Trying to find appropriate uses for Urban County entitlement funding in those cities can be challenging. This situation has led the Urban County to sponsor smaller, targeted programs for underserved populations which are concentrated in smaller communities and not in the other entitlement communities.

Actions taken to reduce lead-based paint hazards. 91.220(k); 91.320(j)

In Monterey County, lead poisoning is addressed by the Monterey County Health Department Childhood

Lead Poisoning Prevention Program (CLPPP). CLPPP provides services to the community to:

- Increase awareness of the hazards of lead exposure
- Reduce lead exposure
- Increase the number of children assessed and appropriately blood tested for lead poisoning

A public health nurse provides home visitation and case management, and a registered environmental health specialist provides environmental home inspections to families of children found to be severely lead-poisoned. Local code enforcement staff will continue to provide information on lead-based paint hazards and resources to abatement.

Actions taken to reduce the number of poverty-level families. 91.220(k); 91.320(j)

The Urban County seeks to assist people living in poverty (extremely low-income households earning less than 30% of the AMI) by providing funding for programs including food security services, housing assistance, and supportive services. For example, in PY 2021/22, Rancho Cielo's Transitional Housing Village was funded to provide residents with training in job readiness, life skills, and financial literacy to help ensure they can be successful when graduating the program. Also, in PY 2021/22, the Urban County again provided CDBG funding to the Boys & Girls Clubs and Girls, Inc. to provide youth leadership training and development with the goal of giving the next generation more resources and skills to break the cycle of poverty.

The Urban County's Economic Development Department works with the private sector to encourage the development of higher paying jobs. The Urban County also partners with the Workforce Development Board and other social service and non-profit agencies to encourage private sector development of higher paying jobs and job/vocational training for residents of the County.

Actions taken to develop institutional structure. 91.220(k); 91.320(j)

In PY 2021/22, the Urban County hired a new Homeless Services Coordinator. One of this position's responsibilities will be develop new strategies to enhance coordination between public and private housing and social services agencies. Existing Urban County staff will work with the Homeless Services Coordinator and continue to communicate with HUD staff, consult with neighboring CDBG jurisdictions, and attend HUD trainings to expand their knowledge of the CDBG program.

Actions taken to enhance coordination between public and private housing and social service agencies. 91.220(k); 91.320(j)

In 2019, a Coalition of Homeless Services Providers prepared an update to the Lead Me Home - The Game Plan for Housing Homeless Persons in Monterey and San Benito Counties Plan (Plan). Urban County partners involved in updating the Plan included a wide-range of public and private entities that include CA-506 Salinas/Monterey, San Benito Counties Continuum of Care, affordable housing developers, community clinics and health centers, other health care providers, educational institutions, faith-based organizations, housing and homeless services providers, health plans, local government,

probation/criminal justice, non-profit agencies, private foundations, public housing authorities, people with lived experience of homelessness, and service providers for families, seniors, survivors of domestic violence, veterans, and youth.

Activities to enhance coordination in PY 2021/22, included inviting private housing and social service agencies were invited to attend public meetings related to the CDBG program and to apply for CDBG funding. The Urban County continued to maintain and expand the outreach list for the CDBG program.

In addition, as noted above, the Urban County hired a new Homeless Services Coordinator. One of this position's responsibilities will be develop new strategies to enhance coordination between public and private housing and social services agencies.

Identify actions taken to overcome the effects of any impediments identified in the jurisdictions analysis of impediments to fair housing choice. 91.520(a)

In June 2019, the Urban County, in cooperation with the entitlement communities of Monterey, Salinas, and Seaside and the Housing Authority of the County of Monterey, completed a new five-year Analysis of Impediments (AI) to Fair Housing Choice. In PY 2021/22, the Urban County has undertaken the following actions to address the effects of impediments to fair housing identified in the AI:

- Economic development activities were undertaken to improve employment skills and support the creation of higher paying jobs throughout the Urban County in cooperation with the Workforce Development Board and America's Job Center of California.
- CDBG funding for public services and supportive services were allocated to benefit underserved communities and populations.
- CDBG funding was made available to two agencies to provide fair housing outreach, education, and to investigate/resolve issues of fair housing discrimination.

County staff are required to take regular sensitivity training and equal opportunity training.

CR-40 - Monitoring 91.220 and 91.230

Describe the standards and procedures used to monitor activities carried out in furtherance of the plan and used to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements

During the worse days of the pandemic, it was not possible to undertaken on-site monitoring and instead desk monitoring was conducted. County staff and the County's consultant interviewed subrecipient staff and management as well as reviewing the subrecipients history of reporting and invoicing. Staff also requested that the subrecipients submit a wide variety of documents which staff reviewed as part of the monitoring process.

The Urban County uses the City Data Services (CDS) system to track activities and expenditures of CDBG funds. No invoices were paid until the associated reports on activities were received. Urban County staff kept in contact with Subrecipients by phone and tracked the timely submission of reports and invoices in CDS. Urban County staff also recommends to the Subrecipients that they read the "Playing by the Rules" guidebook produced by HUD, and it encourages Subrecipients to contact Urban County if additional technical assistance is needed.

Prior to the pandemic, staff from the Urban County would have performed on-site monitoring on 50 percent of the subrecipients that received funded each year. For PY 2021/22, because no on-site monitoring had been conducted during the pandemic, all PY 2021/22 subrecipients except one will be monitored on-site. The process of monitoring the PY 2021/22 subrecipients in currently underway.

Nonetheless, Urban County staff still ensured that Subrecipients were following the guidelines for properly documenting their activities and beneficiaries.

Citizen Participation Plan 91.105(d); 91.115(d)

Describe the efforts to provide citizens with reasonable notice and an opportunity to comment on performance reports.

The County published notices announcing the availability of the PY 2021/22 CAPER for a public comment period from September 3 to 27, 2022. The noticed informed residents where to submit written comments and when the Board of Supervisors would consider the CAPER. Notices were published in the Salinas Tribune, King City Rustler, El Sol (a Spanish language newspaper) and the Monterey County Weekly. All notices are published 15 days or longer prior to the public hearing date.

The Urban County made the PY 2021/22 CAPER available for review at the County's Housing and Economic Development Office in Salinas and at each participating jurisdictions' City Hall at least 15 days prior to the public hearing. The CAPER is also available on the County's website.

The Monterey County Board of Supervisors conducted a public hearing on the PY 2021/22 CAPER on September 27, 2022. The Urban County did not receive any public comments prior to or during the public hearing.

CR-45 - CDBG 91.520(c)

Specify the nature of, and reasons for, any changes in the jurisdiction's program objectives and indications of how the jurisdiction would change its programs as a result of its experiences.

The 2020-2024 Consolidated Plan was developed prior to the onset of the coronavirus pandemic. In response to the impacts of the pandemic, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law on March 27, 2020. The Urban County's initial allocation (CV1) was \$816,541. The second allocation (CV3) was \$1,049,326. The Urban County undertook a fourth Substantial Amendments to the PY 2019/20 Annual Action Plan to allocate the CV3 funds within the existing Consolidated Plan priorities. In PY 2021/22 funds were allocated to five new grants to subrecipients who were serving those residents who were impacted by the pandemic.

One project funded in the PY 2021/22 Annual Action Plan was delayed due to the impacts of the pandemic. The North County Recreation and Park District rehabilitation of a gymnasium and Crane Street Park did not begin in PY 2021/22 as planned. It is expected to begin in the second quarter of PY 2022/23. Other projects exceeded the expected goals in response to increased demand for those services due to the pandemic.

Does this Jurisdiction have any open Brownfields Economic Development Initiative (BEDI) grants?

No

[BEDI grantees] Describe accomplishments and program outcomes during the last year.

Not applicable.

CR-58 – Section 3

No projects subject to Section 3 were undertaken during PY 2021/22.

APPENDIX A

- **Proofs of Publication – 15-Day Public Comment Period**
- **Public Comments Received**

DRAFT

MONTEREY COUNTY WEEKLY

668 Williams Ave
(831) 394-5656
Seaside, CA 93955

Proof of publication

State of California
County of Monterey

I am a citizen of the
United States and a resident of
the State of California. I am
over the age of 18 years and
not party to or interested in the
above-entitled matter.

I am the principal clerk of
Monterey County Weekly,
a newspaper of general
circulation, published weekly by
Milestone Communications, Inc.
in the City of Seaside,
County of Monterey,
and which newspaper has been
adjudicated a newspaper of
general circulation by the
Superior Court of the County
of Monterey, State of
California; that the notice of
which the annexed is a printed
copy has been published in
each regular and entire issue of
said newspaper and not in any
supplement thereof on the
following dates to wit.

Sept. 1, 2022

I certify (or declare) under
penalty of perjury that the
foregoing is true and correct.

Name.....Linda S. Maceira

Signature.

Linda S. Maceira

Dated:.....Sept. 1, 2022..Monterey, California

Legal Notice

County of Monterey Notice of 30-Day Public Comment Period and Adoption of the FY 2021-22 Community Development Block Grant (CDBG) Program Consolidated Annual Performance and Evaluation Report (CAPER)

Notice is Hereby Given that the Board of Supervisors of the County of Monterey will hold a public hearing on Tuesday, September 27, 2022 at 1:30 pm or thereafter at the Monterey County Government Center, 168 West Alisal St., First Floor, Salinas, CA 93901 to consider adoption of the Monterey Urban County 2021-2022 Consolidated Annual Performance and Evaluation Report (CAPER). The County of Monterey has prepared this document for a 15-day Public Comment Period prior to the Public Hearing as required by the U.S. Department of Housing and Urban Development regulations governing the CDBG program.

The public review and comment period for the CAPER will begin on September 3, 2022, and end after the public hearing on September 27, 2022. The County of Monterey invites comments from any person having an interest in the Urban County which includes the cities of Del Rey Oaks, Gonzales, Greenfield, and Sand City and the unincorporated areas of Monterey County. The CAPER describes how the Urban County used CDBG funds between July 1, 2021 and June 30, 2022 to meet the goals and objectives identified to address the community needs as identified in the County's 2021-2022 Annual Action Plan and the 2020-2024 Five-Year Consolidated Plan.

During the Public Comment period, comments or questions should be directed to Dawn Yonemitsu at 1441 Schilling Place, 2nd Fl. South, Salinas, CA 93901; yonemitsu@co.monterey.ca.us; or (831) 755-5387. The CAPER is available for review at city halls in Del Rey Oaks, Gonzales, Greenfield, Sand City, the County's office of Housing and Economic Development and on-line at www.co.monterey.ca.us/government/departments-a-h/housing-community-development/housing

Monterey County Board of Supervisors meeting agendas are published on the County's website (<https://monterey.legistar.com/Calendar.aspx>) with supporting documents for each agenda item. Board Agendas are posted to the Monterey County website at least 72 hours prior to the meeting and are provided for the convenience of the public. Assistance will also be provided to accommodate individuals with special needs. In addition to submitting public comments, you may also contact the Clerk to the Board of Supervisor's at (831) 755-5066 with a description of the accommodation needed at least two working days prior to the hearing. The County of Monterey does not discriminate based on age, race, color, religion, sex, national origin, familial status, or disability in the admission or access to Public Hearings.

Important Notice Regarding COVID 19

Based on guidance from the California Department of Public Health and the California Governor's Office, to minimize the spread of the COVID 19 virus, please do the following:

1. While the Board chambers remain open, you are strongly encouraged to observe the live stream of the Board of Supervisors meetings at http://monterey.granicus.com/ViewPublisher.php?view_id=19, <http://www.mgtvonline.com/>, www.youtube.com/c/MontereyCountyTV or <https://www.facebook.com/MontereyColInfo/>

If you attend the Board of Supervisors meeting in person, you will be required to maintain appropriate social distancing, i.e., maintain a 6-foot distance between yourself and other individuals.

2. If you choose not to attend the Board of Supervisors meeting but desire to make general public comment, or comment on a specific item on the agenda, you may do so in three ways:

- a. submit your comment via email by 5:00 p.m. on the Monday prior to the Board meeting. Please submit your comment to the Clerk of the Board at cob@co.monterey.ca.us. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Your comment will be placed into the record at the Board meeting.
- b. if you are watching the live stream of the Board meeting, you may submit your comment, limited to 250 words or less, to the Clerk of the Board at publiccomment@co.monterey.ca.us. General public comment must be received during the General Public Comment item on the agenda, and comments on specific agenda items must be received as it is being heard. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Every effort will be made to read your comment into the record, but some comments may not be read due to time limitations. Comments received after an agenda item will be made part of the record if received prior to the end of the meeting.
- c. you may participate through ZOOM. For ZOOM participation please join by computer audio at: <https://montereycty.zoom.us/j/224397747>
OR to participate by phone call any of these numbers below:
+1 669 900 6833 US (San Jose)
+1 346 248 7799 US (Houston)
+1 312 626 6799 US (Chicago)
+1 929 205 6099 US (New York)
+1 253 215 8782 US
+1 301 715 8592 US

Enter this Meeting ID number: 224397747 when prompted. Please note there is no Participant Code, you will just hit # again after the recording prompts you.

You will be placed in the meeting as an attendee; when you are ready to make a public comment if joined by computer audio please Raise your Hand; and by phone please push *9 on your keypad.

Additional seating with audio of the Board meeting will be available in the Monterey Room on the 2nd floor of the County Government Center.

PROOF OF PUBLICATION

STATE OF CALIFORNIA
County of Monterey

This space is for the county clerk's filing
stamp

I am a citizen of the United States and a Resident of the County aforesaid; I am Over the age of eighteen years and not a Party to or interested in the above-Entitled matter. I am the principal clerk of the printer of The King City Rustler, Greenfield News, Soledad Bee, and Gonzales Tribune (Salinas Valley Tribune) newspapers of general Circulation by The Superior Court of the County of Monterey, State of California: that the notice of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspapers and not in any supplement thereof on the following dates, to wit:

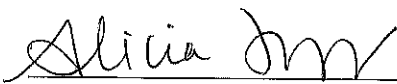
County of Monterey

Date 8/31/2022

I certify (or declare) under penalty of perjury that the forgoing is true and correct.

Executed on: 8/31/2022

At King City, California


Alicia Trujillo, Office Manager

County of Monterey Notice of 30-Day Public Comment Period and Adoption of the FY 2021-22 Community Development Block Grant (CDBG) Program Consolidated Annual Performance and Evaluation Report (CAPER)
Notice is Hereby Given that the Board of Supervisors of the County of Monterey will hold a public hearing on Tuesday, September 27, 2022 at 1:30 pm or thereafter at the Monterey County Government Center, 168 West Alisal St., First Floor, Salinas, CA 93901 to consider adoption of the Monterey Urban County 2021-22 Consolidated Annual Performance and Evaluation Report (CAPER). The County of Monterey has prepared this document for a 15-day Public Comment Period prior to the Public Hearing as required by the U.S. Department of Housing and Urban Development regulations governing the CDBG program. The public review and comment period for the CAPER will begin on September 3, 2022, and end after the public hearing on September 27, 2022. The County of Monterey invites comments from any person having an interest in the Urban County which includes the cities of Del Rey Oaks, Gonzales, Greenfield, and Sand City and the unincorporated areas of Monterey County. The CAPER describes how the Urban County used CDBG funds between July 1, 2021 and June 30, 2022 to meet the goals and objectives identified to address the community needs as identified in the County's 2021-22 Annual Action Plan and the 2020-2024 Five-Year Consolidated Plan. During the Public Comment period, comments or questions should be directed to Dawn Yonemitsu at 1441 Schilling Place, 2nd Fl. South, Salinas, CA 93901; yonemitsu@co.monterey.ca.us; or (831) 755-5387. The CAPER is available for review at city halls in Del Rey Oaks, Gonzales, Greenfield, Sand

City, the County's office of Housing and Economic Development and on-line at <https://www.co.monterey.ca.us/government/departments-a-h/housing-community-development/housing>. Monterey County Board of Supervisors meeting agendas are published on the County's website (<https://montereyregister.com/Calendar.aspx>) with supporting documents for each agenda item. Board Agendas are posted to the Monterey County website at least 72 hours prior to the meeting and are provided for the convenience of the public. Assistance will also be provided to accommodate individuals with special needs. In addition to submitting public comments, you may also contact the Clerk to the Board of Supervisor's at (831) 755-5066 with a description of the accommodation needed at least two working days prior to the hearing. The County of Monterey does not discriminate based on age, race, color, religion, sex, national origin, familial status, or disability in the admission or access to Public Hearings. Important Notice Regarding COVID 19. Based on guidance from the California Department of Public Health and the California Governor's Office, to minimize the spread of the COVID 19 virus, please do the following:
1. While the Board chambers remain open, you are strongly encouraged to observe the live stream of the Board of Supervisors meetings at http://monterey.granlcus.com/ViewPublisher.php?view_id=19, <http://www.mgtvonline.com/MontereyCountyTV> or <https://www.facebook.com/MontereyColinfo/>. If you attend the Board of Supervisors meeting in person, you will be required to maintain appropriate social distancing, i.e., maintain a 6-foot distance

between yourself and other individuals.
2. If you choose not to attend the Board of Supervisors meeting but desire to make general public comment or comment on a specific item on the agenda, you may do so in three ways:
a. submit your comment via email by 5:00 p.m. on the Monday prior to the Board meeting. Please submit your comment to the Clerk of the Board at cob@co.monterey.ca.us. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Your comment will be placed into the record at the Board meeting.
b. if you are watching the live stream of the Board meeting, you may submit your comment, limited to 250 words or less, to the Clerk of the Board at publiccomment@co.monterey.ca.us. General public comment must be received during the General Public Comment Item on the agenda, and comments on specific agenda items must be received as it is being heard. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Every effort will be made to read your comment into the record, but some comments may not be read due to time limitations. Comments received after an agenda item will be made part of the record if received prior to the end of the meeting.
c. you may participate through ZOOM. For ZOOM participation please join by computer audio at: <https://montereycty.zoom.us/j/224397747>. OR to participate by phone call any of these numbers below:

+1 669 900 6833 US (San Jose)
+1 346 248 7799 US (Houston)
+1 312 626 6799 US (Chicago)
+1 929 205 6099 US (New York)
+1 253 215 8782 US
+1 301 715 8592 US
Enter this Meeting ID number: 224397747 when prompted. Please note there is no Participant Code, you will just hit # again after the recording prompts you. You will be placed in the meeting as an attendee; when you are ready to make a public comment if joined by computer audio please Raise your Hand; and by phone please push *9 on your keypad. Additional seating with audio of the Board meeting will be available in the Monterey Room on the 2nd floor of the County Government Center. 2471 - PUB 8/31/2022

The Salinas Californian

Order Confirmation for Ad #: 0005388978

PO number:

Customer: MONTEREY COUNTY
Address: 2ND FLOOR
SALINAS CA 93901 USA
Acct. #: SNA-0000000247
Phone: 8317555399

MONTEREY COUNTY

Ordered By: Anita Nachor

OrderStart Date: 09/03/2022

Order End Date: 09/03/2022

<u>Tear Sheets</u>	<u>Affidavits</u>	<u>Blind Box</u>	<u>Promo Type</u>	<u>Materials</u>	<u>Special Pricing</u>	<u>Size</u>
0	1					2 X 13.08

<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Method</u>	<u>Payment Amount</u>	<u>Amount Due</u>
\$951.68	\$0.00	\$951.68	Invoice	\$0.00	\$951.68

Ad Order Notes:

Sales Rep: sbohland

Order Taker: sbohland

Order Created 08/24/2022

Product	# Ins	Start Date	End Date
SNA-EI Sol	1	09/03/2022	09/03/2022
SNA-TheCalifornian.com	1	09/03/2022	09/03/2022

* ALL TRANSACTIONS CONSIDERED PAID IN FULL UPON CLEARANCE OF FINANCIAL INSTITUTION

Text of Ad:

CONDADO DE MONTEREY AVISO SOBRE EL PERÍODO DE COMENTARIOS PÚBLICOS DE 30-DÍAS Y LA ADOPCIÓN DEL INFORME ANUAL DE RENDIMIENTO Y EVALUACIÓN CONSOLIDADO (CAPER, POR SUS SIGLAS EN INGLÉS) DEL PROGRAMA DE SUBSIDIOS GLOBALES PARA EL DESARROLLO COMUNITARIO (CDBG, POR SUS SIGLAS EN INGLÉS) DEL AÑO FISCAL 2021-22

SE ESTÁ AVISANDO que la Junta de Supervisores del Condado de Monterey tendrá una audiencia pública el martes, 27 de septiembre, del 2022 a las 1:30 pm o más tarde en el Centro de Gobierno del Condado de Monterey, 168 Alisal Street, Primer Piso, Salinas, CA 93901 para considerar la aprobación del Informe Anual de Rendimiento y Evaluación Consolidado (CAPER) del Condado Urbano de Monterey del Año Fiscal 2019-20. El Condado de Monterey ha preparado este documento para un período de comentarios públicos de 30-días antes de la audiencia pública según lo requerido por las regulaciones del Departamento de Vivienda y Desarrollo Urbano de los EE.UU. (HUD, por sus siglas en inglés) que gobiernan el programa CDBG.

El período de revisión y comentario público para el CAPER comenzará el 3 de septiembre del 2022, y terminará después de la audiencia pública el 27 de septiembre del 2022. El Condado de Monterey invita los comentarios de cualquier persona que tenga un interés en el Condado Urbano cual incluye las ciudades de Del Rey Oaks, Gonzales, Greenfield, y Sand City y las áreas no incorporadas del Condado de Monterey. El CAPER describe cómo el Condado Urbano utilizó fondos de CDBG entre el 1 de julio del 2021 y el 30 de junio del 2022 para cumplir con las metas y los objetivos identificados para atender las necesidades de la comunidad según identificadas en el Plan de Acción Anual 2021-22 del Condado y el Plan Consolidado de Cinco-Años.

Durante el período de comentarios públicos, los comentarios o preguntas deben dirigirse a Dawn Yonemitsu en 1441 Schilling Place, Segundo Piso Sur, Salinas, CA 93901; yonemitsud@co.monterey.ca.us; o (831) 755-5387. El CAPER está disponible para la revisión en el ayuntamiento de las ciudades en Del Rey Oaks, Gonzales, Greenfield, Sand City, la oficina de Vivienda y Desarrollo Económico del Condado y en línea en <http://https://www.co.monterey.ca.us/government/departments-a-h/housing-community-development/housing>

Las agendas de las reuniones de la Junta de Supervisores del Condado de Monterey se publican en el sitio web del condado (<https://monterey.legistar.com/Calendar.aspx>) con documentos relacionados a cada tema de la agenda. Las agendas de la Junta se publican en el sitio web del Condado de Monterey por lo menos 72 horas antes de la reunión y se proporcionan para la conveniencia del público. También se proporcionará asistencia para acomodar a las personas con necesidades especiales. Además de presentar comentarios públicos, también puede ponerse en contacto con el Secretario de la Junta de Supervisores al (831) 755-5066 con una descripción de la acomodación necesaria al menos dos días hábiles antes de la reunión. El Condado de Monterey no discrimina sobre la base de la edad, raza, color, religión, sexo, origen nacional, estado familiar, o incapacidad en la admisión o acceso a Audiencias Públicas.

Aviso importante sobre COVID 19

Basado en la guía del Departamento de Salud Pública de California y la Oficina del Gobernador de California, para minimizar la propagación del virus COVID 19, haga lo siguiente:

Mientras las cámaras de la Junta permanecen abiertas, le recomendamos que observe la transmisión en vivo de las reuniones de la Junta de Supervisores en http://monterey.granicus.com/ViewPublisher.php?view_id=19, <http://www.mgtvonline.com/>, www.youtube.com/c/MontereyCountyTV o <https://www.facebook.com/MontereyColInfo/>

Si asiste a la reunión de la Junta de Supervisores en persona, deberá mantener un distanciamiento social apropiado, es decir, mantener una distancia de 6 pies entre usted y otras personas.

1. Si elige no asistir a la reunión de la Junta de Supervisores pero desea hacer un comentario público general o comentar sobre un tema específico de la agenda, puede hacerlo de tres maneras:

a. envíe su comentario por correo electrónico antes de las 5:00 p.m. el lunes anterior a la reunión de la Junta. Envíe su comentario al Secretario de la Junta a cob@co.monterey.ca.us. En un esfuerzo por ayudar al Secretario a identificar el tema de la agenda relacionado con su comentario público, indique en la línea de asunto, el cuerpo de la reunión (por ejemplo, la agenda de la Junta de Supervisores) y el número del tema (por ejemplo, el tema No. 10). Su comentario se colocará en el registro en la reunión de la Junta.

b. Si está viendo la transmisión en vivo de la reunión de la Junta, puede enviar su comentario, limitado a 250 palabras o menos, al Secretario de la Junta en publiccomment@co.monterey.ca.us. Los comentarios del público en general deben recibirse durante el elemento de Comentarios del público en general en la agenda, y los comentarios sobre los elementos específicos de la agenda deben recibirse mientras se escuchan. En un esfuerzo por ayudar al Secretario a identificar el tema de la agenda relacionado con su comentario público, indique en la línea de asunto, el cuerpo de la reunión (por ejemplo, la agenda de la Junta de Supervisores) y el número de tema (es decir, el tema No. 10). Se hará todo lo posible para leer su comentario en el registro, pero algunos comentarios pueden no leerse debido a limitaciones de tiempo. Los comentarios recibidos después de un tema de la agenda serán parte del registro si

se reciben antes del final de la reunión.

c. Puedes participar a través de ZOOM. Para participar en ZOOM, únase por audio de computadora en: <https://montereycty.zoom.us/j/224397747>

O para participar por teléfono, llame a cualquiera de estos números a continuación:

+1 669 900 6833 EE. UU. (San José)
+1346248 7799 EE. UU. (Houston)
+1312626 6799 EE. UU. (Chicago)
+1929205 6099 EE. UU. (Nueva York)
+1 253 215 8782 EE. UU.
+1301715 8592 EE. UU.

Ingrese este número de identificación de reunión: 224397747 cuando se le solicite. Tenga en cuenta que no hay un código de participante, simplemente presionará # nuevamente después de que la grabación lo solicite.

Se lo colocará en la reunión como asistente; cuando esté listo para hacer un comentario público si se une al audio de la computadora, levante la mano; y por teléfono presione * 9 en su teclado.

Asientos adicionales con audio de la reunión de la Junta estarán disponibles en la Sala Monterey en el segundo piso del Centro de Gobierno del Condado.

Sept. 3, 2022 (5388978)

APPENDIX B

DRAFT



Office of Community Planning and Development
U.S. Department of Housing and Urban Development
Integrated Disbursement and Information System
PR26 - CDBG Financial Summary Report
Program Year 2021
MONTEREY COUNTY , CA

DATE: 09-16-22
TIME: 14:12
PAGE: 1

PART I: SUMMARY OF CDBG RESOURCES

01 UNEXPENDED CDBG FUNDS AT END OF PREVIOUS PROGRAM YEAR	2,110,121.46
02 ENTITLEMENT GRANT	1,360,242.00
03 SURPLUS URBAN RENEWAL	0.00
04 SECTION 108 GUARANTEED LOAN FUNDS	0.00
05 CURRENT YEAR PROGRAM INCOME	24,849.12
05a CURRENT YEAR SECTION 108 PROGRAM INCOME (FOR SI TYPE)	0.00
06 FUNDS RETURNED TO THE LINE-OF-CREDIT	0.00
06a FUNDS RETURNED TO THE LOCAL CDBG ACCOUNT	0.00
07 ADJUSTMENT TO COMPUTE TOTAL AVAILABLE	0.00
08 TOTAL AVAILABLE (SUM, LINES 01-07)	3,495,212.58

PART II: SUMMARY OF CDBG EXPENDITURES

09 DISBURSEMENTS OTHER THAN SECTION 108 REPAYMENTS AND PLANNING/ADMINISTRATION	1,302,133.83
10 ADJUSTMENT TO COMPUTE TOTAL AMOUNT SUBJECT TO LOW/MOD BENEFIT	0.00
11 AMOUNT SUBJECT TO LOW/MOD BENEFIT (LINE 09 + LINE 10)	1,302,133.83
12 DISBURSED IN IDIS FOR PLANNING/ADMINISTRATION	203,279.54
13 DISBURSED IN IDIS FOR SECTION 108 REPAYMENTS	0.00
14 ADJUSTMENT TO COMPUTE TOTAL EXPENDITURES	0.00
15 TOTAL EXPENDITURES (SUM, LINES 11-14)	1,505,413.37
16 UNEXPENDED BALANCE (LINE 08 - LINE 15)	1,989,799.21

PART III: LOW/MOD BENEFIT THIS REPORTING PERIOD

17 EXPENDED FOR LOW/MOD HOUSING IN SPECIAL AREAS	0.00
18 EXPENDED FOR LOW/MOD MULTI-UNIT HOUSING	0.00
19 DISBURSED FOR OTHER LOW/MOD ACTIVITIES	1,302,133.83
20 ADJUSTMENT TO COMPUTE TOTAL LOW/MOD CREDIT	0.00
21 TOTAL LOW/MOD CREDIT (SUM, LINES 17-20)	1,302,133.83
22 PERCENT LOW/MOD CREDIT (LINE 21/LINE 11)	100.00%

LOW/MOD BENEFIT FOR MULTI-YEAR CERTIFICATIONS

23 PROGRAM YEARS(PY) COVERED IN CERTIFICATION	PY: 2020 PY: 2021 PY: 2022
24 CUMULATIVE NET EXPENDITURES SUBJECT TO LOW/MOD BENEFIT CALCULATION	0.00
25 CUMULATIVE EXPENDITURES BENEFITING LOW/MOD PERSONS	0.00
26 PERCENT BENEFIT TO LOW/MOD PERSONS (LINE 25/LINE 24)	0.00%

PART IV: PUBLIC SERVICE (PS) CAP CALCULATIONS

27 DISBURSED IN IDIS FOR PUBLIC SERVICES	175,167.71
28 PS UNLIQUIDATED OBLIGATIONS AT END OF CURRENT PROGRAM YEAR	0.00
29 PS UNLIQUIDATED OBLIGATIONS AT END OF PREVIOUS PROGRAM YEAR	0.00
30 ADJUSTMENT TO COMPUTE TOTAL PS OBLIGATIONS	0.00
31 TOTAL PS OBLIGATIONS (LINE 27 + LINE 28 - LINE 29 + LINE 30)	175,167.71
32 ENTITLEMENT GRANT	1,360,242.00
33 PRIOR YEAR PROGRAM INCOME	46,934.53
34 ADJUSTMENT TO COMPUTE TOTAL SUBJECT TO PS CAP	0.00
35 TOTAL SUBJECT TO PS CAP (SUM, LINES 32-34)	1,407,176.53
36 PERCENT FUNDS OBLIGATED FOR PS ACTIVITIES (LINE 31/LINE 35)	12.45%

PART V: PLANNING AND ADMINISTRATION (PA) CAP

37 DISBURSED IN IDIS FOR PLANNING/ADMINISTRATION	203,279.54
38 PA UNLIQUIDATED OBLIGATIONS AT END OF CURRENT PROGRAM YEAR	0.00
39 PA UNLIQUIDATED OBLIGATIONS AT END OF PREVIOUS PROGRAM YEAR	0.00
40 ADJUSTMENT TO COMPUTE TOTAL PA OBLIGATIONS	0.00
41 TOTAL PA OBLIGATIONS (LINE 37 + LINE 38 - LINE 39 + LINE 40)	203,279.54
42 ENTITLEMENT GRANT	1,360,242.00
43 CURRENT YEAR PROGRAM INCOME	24,849.12
44 ADJUSTMENT TO COMPUTE TOTAL SUBJECT TO PA CAP	0.00
45 TOTAL SUBJECT TO PA CAP (SUM, LINES 42-44)	1,385,091.12
46 PERCENT FUNDS OBLIGATED FOR PA ACTIVITIES (LINE 41/LINE 45)	14.68%



Office of Community Planning and Development
U.S. Department of Housing and Urban Development
Integrated Disbursement and Information System
PR26 - CDBG Financial Summary Report
Program Year 2021
MONTEREY COUNTY , CA

DATE: 09-16-22
TIME: 14:12
PAGE: 2

LINE 17 DETAIL: ACTIVITIES TO CONSIDER IN DETERMINING THE AMOUNT TO ENTER ON LINE 17

Report returned no data.

LINE 18 DETAIL: ACTIVITIES TO CONSIDER IN DETERMINING THE AMOUNT TO ENTER ON LINE 18

Report returned no data.

LINE 19 DETAIL: ACTIVITIES INCLUDED IN THE COMPUTATION OF LINE 19

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity Name	Matrix Code	National Objective	Drawn Amount
2019	21	154	6591161	Interim, Inc. - 439 Soledad St. Transitional Housing Development	03C	LMC	\$519,519.12
2019	21	154	6626523	Interim, Inc. - 439 Soledad St. Transitional Housing Development	03C	LMC	\$275,550.78
2019	21	154	6661353	Interim, Inc. - 439 Soledad St. Transitional Housing Development	03C	LMC	\$226,475.87
					03C	Matrix Code	\$1,021,545.77
2018	3	148	6593688	Sand City - Calabrese Park Improvements	03F	LMA	\$50,603.25
					03F	Matrix Code	\$50,603.25
2021	9	191	6661387	San Lucas Curb, Gutter & Sidewalks	03L	LMC	\$54,817.10
					03L	Matrix Code	\$54,817.10
2021	3	190	6593692	Transitional Housing Counseling Support	03T	LMC	\$7,899.60
2021	3	190	6596163	Transitional Housing Counseling Support	03T	LMC	\$4,433.78
2021	3	190	6626732	Transitional Housing Counseling Support	03T	LMC	\$3,464.83
					03T	Matrix Code	\$15,798.21
2021	2	188	6593689	Gonzales Senior Outreach Center (Alliance on Aging)	05A	LMC	\$4,722.25
2021	2	188	6596145	Gonzales Senior Outreach Center (Alliance on Aging)	05A	LMC	\$4,009.51
2021	2	188	6626452	Gonzales Senior Outreach Center (Alliance on Aging)	05A	LMC	\$4,699.96
2021	2	188	6656548	Gonzales Senior Outreach Center (Alliance on Aging)	05A	LMC	\$6,593.37
2021	5	181	6594115	Salinas Valley Home Delivered Meal Program	05A	LMC	\$6,251.00
2021	5	181	6596162	Salinas Valley Home Delivered Meal Program	05A	LMC	\$6,250.00
2021	5	181	6626623	Salinas Valley Home Delivered Meal Program	05A	LMC	\$6,250.00
2021	5	181	6656750	Salinas Valley Home Delivered Meal Program	05A	LMC	\$6,249.00
2021	7	177	6594110	Home Match Monterey County	05A	LMC	\$6,656.11
2021	7	177	6596153	Home Match Monterey County	05A	LMC	\$7,138.30
					05A	Matrix Code	\$58,819.50
2021	6	182	6593685	Gonzales & Camphora Highlands Community Support	05D	LMC	\$1,385.06
2021	6	182	6596149	Gonzales & Camphora Highlands Community Support	05D	LMC	\$3,256.40
2021	6	182	6626467	Gonzales & Camphora Highlands Community Support	05D	LMC	\$8,229.56
2021	6	182	6655680	Gonzales & Camphora Highlands Community Support	05D	LMC	\$12,128.98
2021	8	183	6594113	Girls Leadership Development Programming	05D	LMC	\$9,494.00
2021	8	183	6596157	Girls Leadership Development Programming	05D	LMC	\$8,964.00
2021	8	183	6626494	Girls Leadership Development Programming	05D	LMC	\$7,092.00
					05D	Matrix Code	\$50,550.00
2021	1	178	6593691	Fair Housing & Senior Legal Services	05J	LMC	\$6,250.00
2021	1	178	6596160	Fair Housing & Senior Legal Services	05J	LMC	\$6,250.00
2021	1	178	6626615	Fair Housing & Senior Legal Services	05J	LMC	\$6,250.00
2021	1	178	6655692	Fair Housing & Senior Legal Services	05J	LMC	\$6,250.00
					05J	Matrix Code	\$25,000.00
2021	4	180	6594112	Pajaro Park Programs	05L	LMC	\$9,380.00
2021	4	180	6596152	Pajaro Park Programs	05L	LMC	\$10,480.00
2021	4	180	6626479	Pajaro Park Programs	05L	LMC	\$4,622.56
2021	4	180	6658558	Pajaro Park Programs	05L	LMC	\$517.44
					05L	Matrix Code	\$25,000.00
Total							\$1,302,133.83

LINE 27 DETAIL: ACTIVITIES INCLUDED IN THE COMPUTATION OF LINE 27

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity to prevent, prepare for, and respond to Coronavirus	Activity Name	Grant Number	Fund Type	Matrix Code	National Objective	Drawn Amount
2021	3	190	6593692	No	Transitional Housing Counseling Support	B21UC060011	EN	03T	LMC	\$7,899.60
2021	3	190	6596163	No	Transitional Housing Counseling Support	B21UC060011	EN	03T	LMC	\$4,433.78
2021	3	190	6626732	No	Transitional Housing Counseling Support	B21UC060011	EN	03T	LMC	\$3,464.83
								03T	Matrix Code	\$15,798.21
2021	2	188	6593689	No	Gonzales Senior Outreach Center (Alliance on Aging)	B21UC060011	EN	05A	LMC	\$4,722.25
2021	2	188	6596145	No	Gonzales Senior Outreach Center (Alliance on Aging)	B21UC060011	EN	05A	LMC	\$4,009.51
2021	2	188	6626452	No	Gonzales Senior Outreach Center (Alliance on Aging)	B21UC060011	EN	05A	LMC	\$4,699.96
2021	2	188	6656548	No	Gonzales Senior Outreach Center (Alliance on Aging)	B21UC060011	EN	05A	LMC	\$6,593.37
2021	5	181	6594115	No	Salinas Valley Home Delivered Meal Program	B21UC060011	EN	05A	LMC	\$6,251.00
2021	5	181	6596162	No	Salinas Valley Home Delivered Meal Program	B21UC060011	EN	05A	LMC	\$6,250.00



Office of Community Planning and Development
U.S. Department of Housing and Urban Development
Integrated Disbursement and Information System
PR26 - CDBG Financial Summary Report
Program Year 2021
MONTEREY COUNTY , CA

DATE: 09-16-22
TIME: 14:12
PAGE: 3

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity to prevent, prepare for, and respond to Coronavirus	Activity Name	Grant Number	Fund Type	Matrix Code	National Objective	Drawn Amount
2021	5	181	6626623	No	Salinas Valley Home Delivered Meal Program	B21UC060011	EN	05A	LMC	\$6,250.00
2021	5	181	6656750	No	Salinas Valley Home Delivered Meal Program	B21UC060011	EN	05A	LMC	\$6,249.00
2021	7	177	6594110	No	Home Match Monterey County	B21UC060011	EN	05A	LMC	\$6,656.11
2021	7	177	6596153	No	Home Match Monterey County	B21UC060011	EN	05A	LMC	\$7,138.30
								05A	Matrix Code	\$58,819.50
2021	6	182	6593685	No	Gonzales & Camphora Highlands Community Support	B21UC060011	EN	05D	LMC	\$1,385.06
2021	6	182	6596149	No	Gonzales & Camphora Highlands Community Support	B21UC060011	EN	05D	LMC	\$3,256.40
2021	6	182	6626467	No	Gonzales & Camphora Highlands Community Support	B21UC060011	EN	05D	LMC	\$8,229.56
2021	6	182	6655680	No	Gonzales & Camphora Highlands Community Support	B21UC060011	EN	05D	LMC	\$12,128.98
2021	8	183	6594113	No	Girls Leadership Development Programming	B21UC060011	EN	05D	LMC	\$9,494.00
2021	8	183	6596157	No	Girls Leadership Development Programming	B21UC060011	EN	05D	LMC	\$8,964.00
2021	8	183	6626494	No	Girls Leadership Development Programming	B21UC060011	EN	05D	LMC	\$7,092.00
								05D	Matrix Code	\$50,550.00
2021	1	178	6593691	Yes	Fair Housing & Senior Legal Services	B21UC060011	EN	05J	LMC	\$6,250.00
2021	1	178	6596160	Yes	Fair Housing & Senior Legal Services	B21UC060011	EN	05J	LMC	\$6,250.00
2021	1	178	6626615	Yes	Fair Housing & Senior Legal Services	B21UC060011	EN	05J	LMC	\$6,250.00
2021	1	178	6655692	Yes	Fair Housing & Senior Legal Services	B21UC060011	EN	05J	LMC	\$6,250.00
								05J	Matrix Code	\$25,000.00
2021	4	180	6594112	No	Pajaro Park Programs	B21UC060011	EN	05L	LMC	\$9,380.00
2021	4	180	6596152	No	Pajaro Park Programs	B21UC060011	EN	05L	LMC	\$10,480.00
2021	4	180	6626479	No	Pajaro Park Programs	B21UC060011	EN	05L	LMC	\$4,622.56
2021	4	180	6658558	No	Pajaro Park Programs	B21UC060011	EN	05L	LMC	\$517.44
								05L	Matrix Code	\$25,000.00
				No	Activity to prevent, prepare for, and respond to Coronavirus					\$150,167.71
				Yes	Activity to prevent, prepare for, and respond to Coronavirus					\$25,000.00
Total										\$175,167.71

LINE 37 DETAIL: ACTIVITIES INCLUDED IN THE COMPUTATION OF LINE 37

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity Name	Matrix Code	National Objective	Drawn Amount
2019	20	146	6553957	General Administration	21A		\$1,275.00
2019	20	146	6553960	General Administration	21A		\$1,275.00
2019	20	146	6553961	General Administration	21A		\$1,275.00
2019	20	146	6553962	General Administration	21A		\$1,275.00
2019	20	146	6554160	General Administration	21A		\$1,275.00
2019	20	146	6600953	General Administration	21A		\$1,875.00
2019	20	146	6600961	General Administration	21A		\$1,875.00
2019	20	146	6600962	General Administration	21A		\$1,875.00
2019	20	146	6636425	General Administration	21A		\$1,875.00
2019	20	146	6668324	General Administration	21A		\$6,839.44
2019	20	146	6668330	General Administration	21A		\$842.57
2019	20	146	6668331	General Administration	21A		\$522.52
2020	18	172	6541155	General Administration	21A		\$390.54
2020	18	172	6553907	General Administration	21A		\$4,420.00
2020	18	172	6562231	General Administration	21A		\$75.50
2020	18	172	6564450	General Administration	21A		\$570.00
2020	18	172	6582028	General Administration	21A		\$151.00
2020	18	172	6582035	General Administration	21A		\$226.50
2020	18	172	6585162	General Administration	21A		\$75.50
2020	18	172	6585163	General Administration	21A		\$302.00
2020	18	172	6587151	General Administration	21A		\$4,502.55
2020	18	172	6588391	General Administration	21A		\$75.50
2020	18	172	6588392	General Administration	21A		\$75.50
2020	18	172	6593718	General Administration	21A		\$1,875.00
2020	18	172	6600792	General Administration	21A		\$6,270.00
2020	18	172	6613192	General Administration	21A		\$465.00
2020	18	172	6613887	General Administration	21A		\$2,812.50
2020	18	172	6641363	General Administration	21A		\$11,295.00
2020	18	172	6658627	General Administration	21A		\$147.00
2020	18	172	6658630	General Administration	21A		\$377.50
2020	18	172	6661372	General Administration	21A		\$3,270.00
2020	18	172	6668325	General Administration	21A		\$6.77
2020	18	172	6668334	General Administration	21A		\$1,439.04
2020	18	172	6668335	General Administration	21A		\$922.59
2020	18	172	6668336	General Administration	21A		\$6
2020	18	172	6668337	General Administration	21A		\$6

118



Office of Community Planning and Development
U.S. Department of Housing and Urban Development
Integrated Disbursement and Information System

PR26 - CDBG Financial Summary Report

Program Year 2021

MONTEREY COUNTY , CA

DATE: 09-16-22

TIME: 14:12

PAGE: 4

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity Name	Matrix Code	National Objective	Drawn Amount
2020	18	172	6668339	General Administration	21A		\$529.79
2020	18	172	6668340	General Administration	21A		\$433.32
2020	18	172	6668341	General Administration	21A		\$307.74
2020	18	172	6668342	General Administration	21A		\$1,980.00
2020	18	172	6668343	General Administration	21A		\$594.00
2021	10	174	6546865	General Administration	21A		\$3,029.60
2021	10	174	6553884	General Administration	21A		\$22.00
2021	10	174	6557227	General Administration	21A		\$306.36
2021	10	174	6558961	General Administration	21A		\$951.68
2021	10	174	6563272	General Administration	21A		\$15,949.25
2021	10	174	6564737	General Administration	21A		\$317.79
2021	10	174	6566141	General Administration	21A		\$600.00
2021	10	174	6582275	General Administration	21A		\$282.48
2021	10	174	6593675	General Administration	21A		\$306.36
2021	10	174	6593677	General Administration	21A		\$309.12
2021	10	174	6593678	General Administration	21A		\$332.58
2021	10	174	6593681	General Administration	21A		\$425.00
2021	10	174	6593716	General Administration	21A		\$1,452.00
2021	10	174	6594105	General Administration	21A		\$3,029.60
2021	10	174	6594109	General Administration	21A		\$370.76
2021	10	174	6594128	General Administration	21A		\$685.54
2021	10	174	6595659	General Administration	21A		\$689.54
2021	10	174	6600837	General Administration	21A		\$22,893.17
2021	10	174	6600838	General Administration	21A		\$26,744.44
2021	10	174	6600944	General Administration	21A		\$1,232.00
2021	10	174	6603007	General Administration	21A		\$27.20
2021	10	174	6603681	General Administration	21A		\$155.00
2021	10	174	6618468	General Administration	21A		\$282.48
2021	10	174	6618470	General Administration	21A		\$282.48
2021	10	174	6619162	General Administration	21A		\$105.93
2021	10	174	6619975	General Administration	21A		\$73.03
2021	10	174	6619976	General Administration	21A		\$9,588.40
2021	10	174	6623016	General Administration	21A		\$1,105.00
2021	10	174	6623041	General Administration	21A		\$2,007.14
2021	10	174	6628780	General Administration	21A		\$494.34
2021	10	174	6629005	General Administration	21A		\$748.00
2021	10	174	6634135	General Administration	21A		\$769.83
2021	10	174	6634138	General Administration	21A		\$708.61
2021	10	174	6634139	General Administration	21A		\$500.09
2021	10	174	6634145	General Administration	21A		\$704.97
2021	10	174	6635082	General Administration	21A		\$701.33
2021	10	174	6647779	General Administration	21A		\$428.09
2021	10	174	6649765	General Administration	21A		\$7.89
2021	10	174	6657051	General Administration	21A		\$690.00
2021	10	174	6668373	General Administration	21A		\$15,136.98
					21A	Matrix Code	\$181,430.76
2021	11	176	6583143	ECHO Fair Housing	21D		\$4,844.22
2021	11	176	6596155	ECHO Fair Housing	21D		\$4,040.08
2021	11	176	6626481	ECHO Fair Housing	21D		\$5,024.63
2021	11	176	6659578	ECHO Fair Housing	21D		\$7,939.85
					21D	Matrix Code	\$21,848.78
Total							\$203,279.54



PART I: SUMMARY OF CDBG-CV RESOURCES

01 CDBG-CV GRANT	1,865,867.00
02 FUNDS RETURNED TO THE LINE-OF-CREDIT	0.00
03 FUNDS RETURNED TO THE LOCAL CDBG ACCOUNT	0.00
04 TOTAL AVAILABLE (SUM, LINES 01-03)	1,865,867.00

PART II: SUMMARY OF CDBG-CV EXPENDITURES

05 DISBURSEMENTS OTHER THAN SECTION 108 REPAYMENTS AND PLANNING/ADMINISTRATION	1,074,067.22
06 DISBURSED IN IDIS FOR PLANNING/ADMINISTRATION	1,452.00
07 DISBURSED IN IDIS FOR SECTION 108 REPAYMENTS	0.00
08 TOTAL EXPENDITURES (SUM, LINES 05 - 07)	1,075,519.22
09 UNEXPENDED BALANCE (LINE 04 - LINE8)	790,347.78

PART III: LOWMOD BENEFIT FOR THE CDBG-CV GRANT

10 EXPENDED FOR LOW/MOD HOUSING IN SPECIAL AREAS	0.00
11 EXPENDED FOR LOW/MOD MULTI-UNIT HOUSING	0.00
12 DISBURSED FOR OTHER LOW/MOD ACTIVITIES	1,059,067.22
13 TOTAL LOW/MOD CREDIT (SUM, LINES 10 - 12)	1,059,067.22
14 AMOUNT SUBJECT TO LOW/MOD BENEFIT (LINE 05)	1,074,067.22
15 PERCENT LOW/MOD CREDIT (LINE 13/LINE 14)	98.60%

PART IV: PUBLIC SERVICE (PS) CALCULATIONS

16 DISBURSED IN IDIS FOR PUBLIC SERVICES	959,067.22
17 CDBG-CV GRANT	1,865,867.00
18 PERCENT OF FUNDS DISBURSED FOR PS ACTIVITIES (LINE 16/LINE 17)	51.40%

PART V: PLANNING AND ADMINISTRATION (PA) CAP

19 DISBURSED IN IDIS FOR PLANNING/ADMINISTRATION	1,452.00
20 CDBG-CV GRANT	1,865,867.00
21 PERCENT OF FUNDS DISBURSED FOR PA ACTIVITIES (LINE 19/LINE 20)	0.08%



Office of Community Planning and Development
U.S. Department of Housing and Urban Development
Integrated Disbursement and Information System
PR26 - CDBG-CV Financial Summary Report
MONTEREY COUNTY , CA

DATE: 09-16-22
TIME: 14:14
PAGE: 2

LINE 10 DETAIL: ACTIVITIES TO CONSIDER IN DETERMINING THE AMOUNT TO ENTER ON LINE 10

Report returned no data.

LINE 11 DETAIL: ACTIVITIES TO CONSIDER IN DETERMINING THE AMOUNT TO ENTER ON LINE 11

Report returned no data.

LINE 12 DETAIL: ACTIVITIES INCLUDED IN THE COMPUTATION OF LINE 12

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity Name	Matrix Code	National Objective	Drawn Amount
2019	25	185	6644645	CDBG-CV - Court Appointed Special Advocates	05N	LMC	\$7,395.41
			6646610	CDBG-CV - Court Appointed Special Advocates	05N	LMC	\$7,410.36
			6646612	CDBG-CV - Court Appointed Special Advocates	05N	LMC	\$7,714.29
			6656014	CDBG-CV - Court Appointed Special Advocates	05N	LMC	\$7,723.21
	26	184	6558896	CDBG-CV - Boys and Girls Clubs South County Community Support	05D	LMC	\$509.38
			6596148	CDBG-CV - Boys and Girls Clubs South County Community Support	05D	LMC	\$1,385.06
			6622636	CDBG-CV - Boys and Girls Clubs South County Community Support	05D	LMC	\$3,086.77
			6626465	CDBG-CV - Boys and Girls Clubs South County Community Support	05D	LMC	\$35.97
			6655679	CDBG-CV - Boys and Girls Clubs South County Community Support	05D	LMC	\$19,982.81
	27	189	6555056	MCHOME COVID-19 Mitigation Via Street Outreach - Interim, Inc.	05O	LMC	\$16,381.45
			6596158	MCHOME COVID-19 Mitigation Via Street Outreach - Interim, Inc.	05O	LMC	\$23,333.71
			6626519	MCHOME COVID-19 Mitigation Via Street Outreach - Interim, Inc.	05O	LMC	\$13,003.51
			6655683	MCHOME COVID-19 Mitigation Via Street Outreach - Interim, Inc.	05O	LMC	\$10,728.47
	29	186	6599857	CDBG-CA - City of Gonzales Small Business Financial Assistance	18A	LMJ	\$115,000.00
2020	2	155	6489979	CDBG-CV - ECHO - Fair Housing and Tenant / Landlord Services (2020)	05J	LMC	\$325.70
			6517849	CDBG-CV - ECHO - Fair Housing and Tenant / Landlord Services (2020)	05J	LMC	\$5,183.70
			6554276	CDBG-CV - ECHO - Fair Housing and Tenant / Landlord Services (2020)	05J	LMC	\$9,472.49
	3	157	6416219	CDBG-CV - Food Bank - Additional Food & Truck Purchase	05W	LMC	\$721,541.00
	4	158	6517855	CDBG-CV - Legal Services for Seniors - Fair Housing and Legal Services	05A	LMC	\$6,666.66
	5	159	6416222	CDBG-CV - Meals on Wheels - Salinas Valley Home Delivered Meal Program	05A	LMC	\$35,889.39
			6609842	CDBG-CV - Meals on Wheels - Salinas Valley Home Delivered Meal Program	05A	LMC	\$3,060.00
			6613204	CDBG-CV - Meals on Wheels - Salinas Valley Home Delivered Meal Program	05A	LMC	\$22,914.24
			6626638	CDBG-CV - Meals on Wheels - Salinas Valley Home Delivered Meal Program	05A	LMC	\$4,242.89
			6657014	CDBG-CV - Meals on Wheels - Salinas Valley Home Delivered Meal Program	05A	LMC	\$1,970.14
			6669872	CDBG-CV - Meals on Wheels - Salinas Valley Home Delivered Meal Program	05A	LMC	\$14,110.61
Total							\$1,059,067.22

LINE 16 DETAIL: ACTIVITIES INCLUDED IN THE COMPUTATION OF LINE 16

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity Name	Matrix Code	National Objective	Drawn Amount
2019	25	185	6644645	CDBG-CV - Court Appointed Special Advocates	05N	LMC	\$7,395.41
			6646610	CDBG-CV - Court Appointed Special Advocates	05N	LMC	\$7,410.36
			6646612	CDBG-CV - Court Appointed Special Advocates	05N	LMC	\$7,714.29
			6656014	CDBG-CV - Court Appointed Special Advocates	05N	LMC	\$7,723.21
	26	184	6558896	CDBG-CV - Boys and Girls Clubs South County Community Support	05D	LMC	\$509.38
			6596148	CDBG-CV - Boys and Girls Clubs South County Community Support	05D	LMC	\$1,385.06
			6622636	CDBG-CV - Boys and Girls Clubs South County Community Support	05D	LMC	\$3,086.77
			6626465	CDBG-CV - Boys and Girls Clubs South County Community Support	05D	LMC	\$35.97
			6655679	CDBG-CV - Boys and Girls Clubs South County Community Support	05D	LMC	\$19,982.81
	27	189	6555056	MCHOME COVID-19 Mitigation Via Street Outreach - Interim, Inc.	05O	LMC	\$16,381.45
			6596158	MCHOME COVID-19 Mitigation Via Street Outreach - Interim, Inc.	05O	LMC	\$23,333.71
			6626519	MCHOME COVID-19 Mitigation Via Street Outreach - Interim, Inc.	05O	LMC	\$13,003.51
			6655683	MCHOME COVID-19 Mitigation Via Street Outreach - Interim, Inc.	05O	LMC	\$10,728.121



Office of Community Planning and Development
U.S. Department of Housing and Urban Development
Integrated Disbursement and Information System
PR26 - CDBG-CV Financial Summary Report
MONTEREY COUNTY , CA

DATE: 09-16-22
TIME: 14:14
PAGE: 3

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity Name	Matrix Code	National Objective	Drawn Amount
2020	2	155	6489979	CDBG-CV - ECHO - Fair Housing and Tenant / Landlord Services (2020) 05J	05J	LMC	\$325.70
			6517849	CDBG-CV - ECHO - Fair Housing and Tenant / Landlord Services (2020) 05J	05J	LMC	\$5,183.70
			6554276	CDBG-CV - ECHO - Fair Housing and Tenant / Landlord Services (2020) 05J	05J	LMC	\$9,472.49
	3	157	6416219	CDBG-CV - Food Bank - Additional Food & Truck Purchase	05W	LMC	\$721,541.00
	4	158	6517855	CDBG-CV - Legal Services for Seniors - Fair Housing and Legal Services	05A	LMC	\$6,666.66
	5	159	6416222	CDBG-CV - Meals on Wheels - Salinas Valley Home Delivered Meal Program	05A	LMC	\$35,889.39
			6609842	CDBG-CV - Meals on Wheels - Salinas Valley Home Delivered Meal Program	05A	LMC	\$3,060.00
			6613204	CDBG-CV - Meals on Wheels - Salinas Valley Home Delivered Meal Program	05A	LMC	\$22,914.24
			6626638	CDBG-CV - Meals on Wheels - Salinas Valley Home Delivered Meal Program	05A	LMC	\$4,242.89
			6657014	CDBG-CV - Meals on Wheels - Salinas Valley Home Delivered Meal Program	05A	LMC	\$1,970.14
			6669872	CDBG-CV - Meals on Wheels - Salinas Valley Home Delivered Meal Program	05A	LMC	\$14,110.61
	6	160	6427392	CDBG-CV - United Way - 211 Service	05Z	URG	\$15,000.00
Total							\$959,067.22

LINE 19 DETAIL: ACTIVITIES INCLUDED IN THE COMPUTATION OF LINE 19

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity Name	Matrix Code	National Objective	Drawn Amount
2019	31	175	6547010	CDBG-CV - General Administration	21A		\$1,452.00
Total							\$1,452.00



Monterey County

Item No.18

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-859

September 27, 2022

Introduced: 9/8/2022

Current Status: Scheduled AM

Version: 1

Matter Type: General Agenda Item

- a. Approve Monterey County Communications & Public Relations Guidelines pursuant to the County Media Policy (Policy Number G-145 of the Board Policy Manual)
- b. Provide direction to staff as appropriate.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve Monterey County Communications & Public Relations Guidelines pursuant to the County Media Policy (Policy Number G-145 of the Board Policy Manual)
- b. Provide direction to staff as appropriate.

SUMMARY:

The Board of Supervisors, upon approving the creation of the County Communications Program, directed staff to develop policies, procedures, guidelines and best practices to create consistent messaging and standards for all external and internal communications. The purpose of this policy is to establish guidelines for County of Monterey management, employees, elected officials and appointees that support current best practices where it concerns Communications and Public Relations.

DISCUSSION:

Having uniform policies and guidelines regarding Communications and Public Relations is critical in creating an environment of transparency and effective and efficient communications to the residents and stakeholders of the County of Monterey. It also supports the strategic initiatives of the Board of Supervisors to modernize the methods and tools the County uses to keep the public informed on matters impacting the quality of life in Monterey County. Implementing this policy is one step in facilitating improved communications with the public the County serves.

OTHER AGENCY INVOLVEMENT:

County Counsel, County Administrative Office.

FINANCING:

There is no impact to the General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Mark a check to the related Board of Supervisors Strategic Initiatives

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by:

Nicholas Pasculli, County Communications Director

Approved by:

Nicholas E. Chiulos, Assistant County Administrative Officer

Attachments:

Draft Policy



Monterey County

Item No.15

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-859

September 27, 2022

Introduced: 9/8/2022

Current Status: Scheduled AM

Version: 1

Matter Type: General Agenda Item

- a. Approve Monterey County Communications & Public Relations Guidelines pursuant to the County Media Policy (Policy Number G-145 of the Board Policy Manual)
- b. Provide direction to staff as appropriate.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve Monterey County Communications & Public Relations Guidelines pursuant to the County Media Policy (Policy Number G-145 of the Board Policy Manual)
- b. Provide direction to staff as appropriate.

SUMMARY:

The Board of Supervisors, upon approving the creation of the County Communications Program, directed staff to develop policies, procedures, guidelines and best practices to create consistent messaging and standards for all external and internal communications. The purpose of this policy is to establish guidelines for County of Monterey management, employees, elected officials and appointees that support current best practices where it concerns Communications and Public Relations.

DISCUSSION:

Having uniform policies and guidelines regarding Communications and Public Relations is critical in creating an environment of transparency and effective and efficient communications to the residents and stakeholders of the County of Monterey. It also supports the strategic initiatives of the Board of Supervisors to modernize the methods and tools the County uses to keep the public informed on matters impacting the quality of life in Monterey County. Implementing this policy is one step in facilitating improved communications with the public the County serves.

OTHER AGENCY INVOLVEMENT:

County Counsel, County Administrative Office.

FINANCING:

There is no impact to the General Fund.

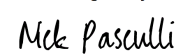
BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Legistar File Number: 22-859

Mark a check to the related Board of Supervisors Strategic Initiatives

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by:
DocuSigned by:


2839741BC46D404...

9/20/2022 | 1:20 PM PDT

Nicholas Pasculli, County Communications Director

Approved by:
DocuSigned by:


910D1286CA694A8...

9/20/2022 | 1:24 PM PDT

Nicholas E. Chiulos, Assistant County Administrative Officer

Attachments:

Draft Policy



County of Monterey

Communications & Public Relations Guidelines

Version September 8, 2022

- Internal document -



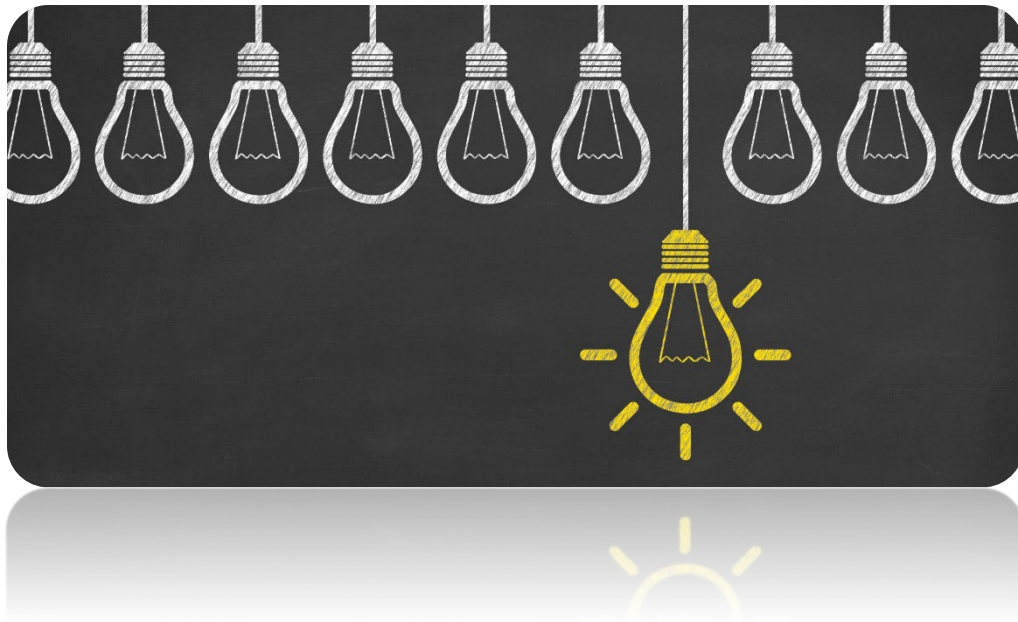


TABLE OF CONTENTS

Introduction	3
Help Us to Help You (Quick CT Service Reference Guide).	4
Crisis Management Guidelines	5
News Releases	5
Advertising	6
Media Appearances	6
Photography.	6
Concerns	6
Guidelines for County of Monterey Publications	7
County Website Updates	8
Communications Program Contact Information	9

(This document will be available online in searchable PDF form)





The County of Monterey - County Communications Program – At Your Service

The County of Monterey, County Communications Team (CT) manages the brand and image of the County of Monterey government entity utilizing internal, local, regional, and national avenues through news and information dissemination, media relations, publication production, advertising, publicity, marketing and the County of Monterey website and mobile app. The program creates strategy to best position the County, utilizing traditional and emerging media, building key relationships, and anticipating stakeholders' needs. The CT also establishes media policy, and public relations protocol. The CT also provides creative and content input where it concerns the County Government Channel and County web assets.

This document is designed to help our internal stakeholders form a strong alliance with the County Communications Program to coordinate our efforts and present an organized, consistent, professional approach to promotion of the County's mission and accomplishments.

We refer to the County of Monterey Board of Supervisors, County Administrative Office, Department Heads, County staff, and the residents of the county as the primary stakeholders. Stakeholders are those who have a relationship with or interest in the success of the County of Monterey government entity.

The first step in that alliance with your County Communications Team is to involve us, keep us informed and utilize our services appropriately in the advancement of County of Monterey's mission and reputation.

All marketing materials that might impact County operations or the image of the County should be shared with the County Communications Team (CT). (*For example, official materials for public distribution such as departmental / program brochures, printed ads, publications, and service guides. This does not include simple flyers, social media graphics, or newsletters).

Help Us to Help You:

- To have your information or public event posted on the County of Monterey website and/or distributed to the media follow the processes previously in place and established by County ITD. If you need assistance entering a public event on the County Calendar, contact ITD Webmasters directly.
 - For help with advertising, marketing or promotions, follow the processes listed in our Public Relations Procedures web page. Email the County Communications Team at pr@co.monterey.ca.us to inform us of and/or arrange media appearances and interviews.
 - Coordinate all press conferences/press events in advance with the County Communications Team.
 - If approached by media representatives, always refer them to the department head, the designated department PIO or the County Communications Team. An after-action report must be submitted to the County Communications Director after such contact or interviews are made with the media.
 - Let us know if you would like to make statements to the press about your projects or critical issues and if you would like to work with the media on news or feature stories.
 - The branding of all County of Monterey publications and/or promotional materials for dissemination should be approved by the County Communications Director or their designee*.
- *County Communications Management Analyst or Media Analyst
- Consult with the County Communications Team regarding all letters to the editor (written by any department head or manager), flyers, posters and publications prior to publication and/or distribution.
 - Any promotional video taping of County of Monterey activities for media purposes (non-broadcast news), rebroadcast or public screenings should be coordinated through (or shared with) the County Communications Program Office.
 - County Communications team shall be notified of all department/program public special events.
 - To avoid inconsistent directives or messaging, Board of Supervisor members and their staff should contact the CAO or their designee before contacting the County Communications Director or County Communications Program members.
 - County employees should follow the approved County Media Guidelines and/or the guidelines developed specifically designed for their department. Refer to the Board Policy Manual Section G-145.

Units within the Health Department, Natividad Medical Center, Clinic Services, Office of Emergency Services, 911, Public Works, Agricultural Commissioner, Elections, District Attorney, County Counsel and Public Safety (Sherriff's Department/County Jail) may have direct media contact because of the nature and volume of their work or the frequency of recurring messages. When possible, those department's PIO's should collaborate with the County Communications Team, follow established PR guidelines and copy County Communications Director on any information they forward to the media.



In some cases, County of Monterey personnel may have standing professional or personal relationships with reporters, photographers or media personalities. In such instances, notify the County Communications Team before asking the media to cover or report on an event or issue, so that marketing and image enhancement can be well coordinated.

CRISIS MANAGEMENT GUIDELINES

When bad news happens, the press will be on your doorstep, literally.

Examples of crises include: An accident resulting in death or serious injury; the arrest of an employee, or administrator; a murder, rape, arson, assault or felony that occurs on county property; a natural disaster, an investigation or the potential of litigation. It is important in times of crisis to follow a standard operating procedure to preserve institutional image.

1. Immediately call and/or forward crisis-related information to the County Communications Program Office at (831) 755-5115 or pr@co.monterey.ca.us. (See page 9 for all emergency contact information)

→ This includes what happened, when, where, to whom and who else is involved.

2. Immediately refer all media calls to the County Counsel or designated delegate (in cases of [non-natural disaster] crisis especially, it is important to have a single source of information.) Stay calm and be courteous.

NEWS RELEASES

A news release is the most immediate way to get information through the media to the community.

Need to send a release? Here's how to do it:

Information for news releases should be received at least 10 business days before the expected date of distribution.

The CT will advise (or decide) the best time and strategy for release of your story. The CT can get your information from County of Monterey to the media in a timely manner but cannot guarantee when the media will use it. Trust our professional expertise as to how best to approach the media.

The CT routinely e-mails and faxes news releases to all local (and regional) media. The CT also distributes news and information of wider appeal to regional and national media.

Send information to pr@co.monterey.ca.us.



ADVERTISING

The County Communications Program is available to assist you with the development and placement of print, radio, television, digital and multi-media advertising. To make a request for advertising, send details to pr@co.monterey.ca.us. Information for radio advertising should be received one month prior to expected air date. Information for print advertising should be received one month before publication. Information for television advertising should be received two months before broadcast. Information for digital placement should be received one month before expected deployment.

MEDIA APPEARANCES

Appearing on radio and television talk shows and speaking to service or civic organizations and church groups, is an excellent way to disseminate information. The CT can arrange such appearances. To make a request for media appearances, send details to pr@co.monterey.ca.us.

If you have made an appearance or provided information to the media, please also let the CT know.

PHOTOGRAPHY

The County Communications Program (with at least one week notice) can arrange to take photos for media and publication purposes only. The CT can suggest professional photographers to meet your needs. Departments desiring a photo archive may want to purchase a camera to catalog events. Please remember to share your photographic assets with the CT. Photo releases should be on file when photographing department customers or the general public. See the attached County Counsel approved Release form.



CONCERNS

If you have concerns about the way a story was handled or if there was an error in the coverage of your story or event, call the County Communications Team. Please don't contact the media directly.

GUIDELINES FOR COUNTY OF MONTEREY PUBLICATIONS

For purposes of quality control, the County Communications Program will review all County of Monterey publications to ensure that they adhere to the County of Monterey Brand Identity Style Guide. The CT will also be available to advise on editorial content. All County of Monterey publications should be properly branded to include the County wordmark, “County of Monterey” and an approved County of Monterey emblem, available from the CT Graphics Page.

Each publication should include

- ___ Address (if directing the public to a physical location)
- ___ Phone number
- ___ QR Code
- ___ E-mail address
- ___ and, if appropriate, a website URL (www.co.monterey.ca.us) for more information.

The mailing address should be either of the standard county addresses:

County of Monterey Government Center
168 W. Alisal Street
Salinas, CA 93901

OR

County of Monterey (appropriate Department address)

The telephone numbers should also be the standard County telephone number – (831) 755-5115 or department’s phone number, unless the document needs a specific contact number. When specifics are required, include the contact information for the department.

ORGANIZATION AFFILIATION STATEMENT:

“The County of Monterey is accredited by

Equal Opportunity Statement.....

WEB SITE...web pages www.co.monterey.ca.us



COUNTY WEBSITE UPDATES

The County Communications Program shares oversight responsibility for the website. The County's webmaster is a member of the ITD team. The County of Monterey website is designed to allow individuals who are professional "Content Contributors" and experienced in their areas to update their respective pages on the site. Contact the webmaster at 193-WebServices@co.monterey.ca.us to arrange for training to become a content contributor. For more information, contact the County of Monterey Website Management Team at ITD

SPECIAL EVENTS

The Communications Team should be informed of any special event as far in advance as possible. A special event is an activity that does not occur on a regular basis, which is intended to promote or provide information on a particular program or service or serve as a vehicle for establishing a relationship between the host and a specific audience.

Special events include, receptions, seminars, conferences, lectures, and a myriad of other activities, depending upon the creativity of the coordinating group. Planning times vary according to the event.

Want to Learn More About Marketing, Media Strategy and Image Enhancement? The County Communications Program will be glad to provide your office with a consulting explaining the basics. Call for an appointment.

COUNTY COMMUNICATIONS PROGRAM CONTACT INFO:

County Communications Director

Nicholas M. Pasculli – (831) 796-3094, PasculliN@co.monterey.ca.us

County Counsel Office

Leslie J. Girard – (831) 755-5365, GirardLJ@co.monterey.ca.us

Susan Blitch – (831) 755-5161, BlitchSK@co.monterey.ca.us

Management Analyst III (Comms Coord.)

Maia Carroll – (831) 796-3092, CarrollM@co.monterey.ca.us

Media Analyst (Bilingual Spanish)

Nelly B. Otsu – (831) 755-5506, OtsuNB@co.monterey.ca.us

Administrative Assistant Confidential

Maegan Ruiz-Ignacio – (831) 755-5508, Ruiz-IgnacioM@co.monterey.ca.us

Senior Secretary

Berlina Nunez – (831) 755-5417, NunezB@co.monterey.ca.us

#

Consent & Release Form



I understand that a photograph and video has been taken of me for possible consideration by County of Monterey for use in educational, informational or marketing efforts. I hereby irrevocably consent and agree to, broadcast or other use by County of Monterey, of photograph and video or any portion thereof which has been taken of me. I hereby give County of Monterey, its Officers, Agents, and Employees, and its successors and assigns, my permission to use the photograph and video of me, for any professional purpose. This also encompasses all electronic video, and motion picture media. I waive the right of prior approval and hereby release County of Monterey, its Officers, Agents, and Employees, and its successors and assigns, from any and all claims and damages of any kind based on the use of said photograph or videotape or any portion thereof. I further waive claim to any compensation of any nature whatsoever.

It is understood and agreed that said photograph or video or portion thereof, as well as all materials connected therewith and rights arising thereunder, are the exclusive property of County of Monterey.

This Consent and Release shall be binding upon the heirs, next-of-kin and personal representatives of the undersigned. The undersigned represents and warrants that they are over the age of eighteen (18) years. If not 18 years old, check box below.

Print Name: _____

Signature: _____ Date: _____

Address: _____

Phone: _____

I am under 18 years old.

If under 18 years of age, the following must be completed by a parent or guardian:

Parent/Guardian: _____

Signature: _____ Date: _____

Address: _____

Phone: _____



Monterey County

Item No.19

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: ORD 22-039

September 27, 2022

Introduced: 9/20/2022

Current Status: Scheduled PM

Version: 1

Matter Type: Ordinance

Conduct a hearing to consider:

- a. Finding that the abandonment of the Official Plan Lines of the portion of Rio Road between the two segments of Rio Road currently constructed, being approximately that portion from Engineer's Station 6+77.8 to 39+72.02, as said Official Plan Lines and said Stations are shown on map filed in the Office of the County Recorder in Volume 2 of Official Plan Lines, at Page 55, is in conformity with Policy CV-2.19 of the Carmel Valley Master Plan, a part of the Monterey County General Plan;
- b. Adoption of an ordinance amending Ordinance 499, being the Streets and Highways Plan of Monterey County, deleting a portion of Section 3ww and Section 8ww of the Official Plan Lines of the Rio Road Extension; and
- c. Adoption of a resolution to rename that portion of Rio Road northerly of Engineer's Station 39+72.02 to Village Park Road.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Find that the abandonment of the Official Plan Lines of the portion of Rio Road between the two segments of Rio Road currently constructed, being approximately that portion from Engineer's Station 6+77.8 to 39+72.02, as said Official Plan Lines and said Stations are shown on map filed in the Office of the County Recorder in Volume 2 of Official Plan Lines, at Page 55, is in conformity with Policy CV-2.19 of the Carmel Valley Master Plan, a part of the Monterey County General Plan;
- b. Adopt an ordinance amending Ordinance 499, being the Streets and Highways Plan of Monterey County, as amended by Ordinance No. 1693, deleting a portion of Section 3ww and Section 8ww of the Official Plan Lines for the extension and construction of Rio Road; and
- c. Adopt a resolution to rename that portion of Rio Road northerly of Engineer's Station 39+72.02 to Village Park Road.

SUMMARY/DISCUSSION:

Ordinance No. 499 was adopted by the Monterey County Board of Supervisors on March 17, 1941, to establish a Street and Highways Plan as part of the County Master Plan (Attachment A). Ordinance No. 499 provided for the establishment of Official Plan Lines (OPL) for the purpose of establishing corridors for new roads or for the widening of existing roads. Ordinance No. 499 restricted development within the adopted OPL. It also included the Board's declaration that said ordinance would be amended from time to time, as needed.

Ordinance No. 499 was amended in 1969 by Ordinance No. 1693 (Attachment B) to establish, “OPL for the extension and construction of Rio Road in the Carmel Valley from the existing Rio Road northerly and easterly to an intersection with the Carmel Valley Road.” This new OPL was added as Sections 3ww and 8ww of Ordinance No. 499 and shown on the map filed in the Office of the County Recorder in Volume 2 of Official Plan Lines, at Page 55 (Attachment C).

In 1974, as part of a Carmel Valley Road widening project, the intersection portion of Rio Road and a segment 500 ft. southerly of Carmel Valley Road was constructed. In the same year, the Carmel Rancho side of Rio Road was extended 660 feet to its current limits as part of the offsite improvements required for the Riverwood development. However, no action has been taken to acquire road right-of-way over the connecting segment of Rio Road within the adopted OPL.

In 2010, the Board adopted the current Monterey County General Plan, which includes the Carmel Valley Master Plan (CVMP). Policy CV-2.19 of the CVMP states: “*The County shall initiate proceedings for an abandonment of the Official Plan Line for the Rio Road Extension.*” On July 27, 2021, the Board approved a Combined Development Permit for the Rancho Cañada Village subdivision (PLN040021-AMD1) which proposes development within the unimproved/unacquired areas of the Rio Road OPL (Approved Vesting Tentative Map Sheet 4 - Attachment D). The proposed abandonment of the unimproved/unacquired segment of the OPL will be consistent with these previous actions by the Board.

In 2020, a letter from the Monterey Peninsula Regional Park District requesting the renaming of the 500 ft. segment of Rio Road that connects to Carmel Valley Road was forwarded to the County. The letter proposed changing the name to “Park Road.” However, to avoid conflict with other similarly named streets/roads, the proposed name was revised to “Village Park Road.” This proposed name was reviewed and approved by the Monterey County Department of Emergency Communications, and it is acceptable to the Monterey Peninsula Regional Park District. There are no Rio Road addresses issued to parcels accessed from this segment of Rio Road, so no existing addresses will be affected. The timing of the road name change is proposed to coincide with the intersection improvements required by Condition of Approval Nos. 52 and 53 of the Rancho Cañada Village subdivision (PLN040021-AMD1).

Monterey County Ordinance No. 5342 (Attachment F) specifically assigned the Housing and Community Development (HCD) Department with addressing. However, based on Monterey County Ordinance No. 1241, as amended (Attachment G), this addressing assignment is limited to address numbering and private road naming and renaming. Therefore, since this action proposes to rename a portion or segment of Rio Road (a public road with no change of addresses) to Village Park Road, this road renaming is significantly different from the proposed renaming of streets within the East Garrison Community Services District which is the subject of Board Referral No. 2021.25, a corresponding preliminary response presented to the Board by PWFP on January 11, 2022 and a recent status update presented to the Board by PWFP on April 26, 2022. In contrast to the proposed renaming of Rio Road, a public road with no change of addresses, Board Referral No. 2021.25 involves the proposed renaming of private roads or streets and corresponding address changes.

Pursuant to California Streets and Highways Code Section 970.5, the Board of Supervisors is authorized to name or rename public streets or roads, and notices were properly posted in accordance to said Code Section.

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel has approved this ordinance as to form. The Department of Emergency Communications has reviewed and approved the proposed road name (Attachment E). The Monterey Peninsula Regional Park District has approved the proposed road name.

FINANCING:

The only County cost is for staff time to process this item and for staff time and material to produce and install a new road name sign. The cost for new signage will be appropriated in the FY23 PWFP budget. Sufficient appropriations are available in the PWFP Road and Bridge budget (Fund 002, Unit 8558) for PWFP staff time to process this action.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action supports the Board of Supervisors' Strategic Initiative for Economic Development and Public Safety. The proposed ordinance and corresponding road renaming will promote orderly development and will implement Policy CV-2.19 of the Carmel Valley Master Plan (CVMP), Chapter 9.B - CVMP (Amended as of 02/12/2013), an Element/Master Plan of the 2010 Monterey County General Plan Adopted October 26, 2010, which provides as follows:

CV-2.19 The County shall initiate proceedings for an abandonment of the Official Plan Line for the Rio Road Extension.

The proposed ordinance and corresponding road renaming will improve public safety by preventing any confusion for emergency responders and others due to the existence of disconnected roads with the same name.

<u> X </u>	Economic Development
<u> </u>	Administration
<u> </u>	Health & Human Services
<u> </u>	Infrastructure
<u> X </u>	Public Safety

Prepared by: Michael K. Goetz, PLS, County Surveyor

Approved by: Tom Bonigut, PE, Assistant Director of Public Works, Facilities, & Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

Attachment A - Ordinance No. 499

Attachment B - Ordinance No. 1693

Attachment C - Volume 2 of Official Plan Lines, Page 55

Attachment D - Approved Tentative Map for the Rancho Cañada Village subdivision
(PLN040021-AMD1)

Attachment E - Monterey County Department of Emergency Communications memo

Attachment F - Monterey County Ordinance No. 5342

Attachment G - Monterey County Ordinance No. 1241 with amendment

Attachment H - Draft Ordinance amending Ordinance No. 499

Attachment I - Draft Board Resolution renaming Rio Road to Village Park Road



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers

168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: ORD 22-039

September 27, 2022

Introduced: 9/20/2022

Current Status: Agenda Ready

Version: 1

Matter Type: Ordinance

Conduct a hearing to consider:

- a. Finding that the abandonment of the Official Plan Lines of the portion of Rio Road between the two segments of Rio Road currently constructed, being approximately that portion from Engineer's Station 6+77.8 to 39+72.02, as said Official Plan Lines and said Stations are shown on map filed in the Office of the County Recorder in Volume 2 of Official Plan Lines, at Page 55, is in conformity with Policy CV-2.19 of the Carmel Valley Master Plan, a part of the Monterey County General Plan;
- b. Adoption of an ordinance amending Ordinance 499, being the Streets and Highways Plan of Monterey County, deleting a portion of Section 3ww and Section 8ww of the Official Plan Lines of the Rio Road Extension; and
- c. Adoption of a resolution to rename that portion of Rio Road northerly of Engineer's Station 39+72.02 to Village Park Road.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Find that the abandonment of the Official Plan Lines of the portion of Rio Road between the two segments of Rio Road currently constructed, being approximately that portion from Engineer's Station 6+77.8 to 39+72.02, as said Official Plan Lines and said Stations are shown on map filed in the Office of the County Recorder in Volume 2 of Official Plan Lines, at Page 55, is in conformity with Policy CV-2.19 of the Carmel Valley Master Plan, a part of the Monterey County General Plan;
- b. Adopt an ordinance amending Ordinance 499, being the Streets and Highways Plan of Monterey County, as amended by Ordinance No. 1693, deleting a portion of Section 3ww and Section 8ww of the Official Plan Lines for the extension and construction of Rio Road; and
- c. Adopt a resolution to rename that portion of Rio Road northerly of Engineer's Station 39+72.02 to Village Park Road.

SUMMARY/DISCUSSION:

Ordinance No. 499 was adopted by the Monterey County Board of Supervisors on March 17, 1941, to establish a Street and Highways Plan as part of the County Master Plan (Attachment A). Ordinance No. 499 provided for the establishment of Official Plan Lines (OPL) for the purpose of establishing corridors for new roads or for the widening of existing roads. Ordinance No. 499 restricted development within the adopted OPL. It also included the Board's declaration that said ordinance would be amended from time to time, as needed.

Ordinance No. 499 was amended in 1969 by Ordinance No. 1693 (Attachment B) to establish, “OPL for the extension and construction of Rio Road in the Carmel Valley from the existing Rio Road northerly and easterly to an intersection with the Carmel Valley Road.” This new OPL was added as Sections 3ww and 8ww of Ordinance No. 499 and shown on the map filed in the Office of the County Recorder in Volume 2 of Official Plan Lines, at Page 55 (Attachment C).

In 1974, as part of a Carmel Valley Road widening project, the intersection portion of Rio Road and a segment 500 ft. southerly of Carmel Valley Road was constructed. In the same year, the Carmel Rancho side of Rio Road was extended 660 feet to its current limits as part of the offsite improvements required for the Riverwood development. However, no action has been taken to acquire road right-of-way over the connecting segment of Rio Road within the adopted OPL.

In 2010, the Board adopted the current Monterey County General Plan, which includes the Carmel Valley Master Plan (CVMP). Policy CV-2.19 of the CVMP states: “*The County shall initiate proceedings for an abandonment of the Official Plan Line for the Rio Road Extension.*” On July 27, 2021, the Board approved a Combined Development Permit for the Rancho Cañada Village subdivision (PLN040021-AMD1) which proposes development within the unimproved/unacquired areas of the Rio Road OPL (Approved Vesting Tentative Map Sheet 4 - Attachment D). The proposed abandonment of the unimproved/unacquired segment of the OPL will be consistent with these previous actions by the Board.

In 2020, a letter from the Monterey Peninsula Regional Park District requesting the renaming of the 500 ft. segment of Rio Road that connects to Carmel Valley Road was forwarded to the County. The letter proposed changing the name to “Park Road.” However, to avoid conflict with other similarly named streets/roads, the proposed name was revised to “Village Park Road.” This proposed name was reviewed and approved by the Monterey County Department of Emergency Communications, and it is acceptable to the Monterey Peninsula Regional Park District. There are no Rio Road addresses issued to parcels accessed from this segment of Rio Road, so no existing addresses will be affected. The timing of the road name change is proposed to coincide with the intersection improvements required by Condition of Approval Nos. 52 and 53 of the Rancho Cañada Village subdivision (PLN040021-AMD1).

Monterey County Ordinance No. 5342 (Attachment F) specifically assigned the Housing and Community Development (HCD) Department with addressing. However, based on Monterey County Ordinance No. 1241, as amended (Attachment G), this addressing assignment is limited to address numbering and private road naming and renaming. Therefore, since this action proposes to rename a portion or segment of Rio Road (a public road with no change of addresses) to Village Park Road, this road renaming is significantly different from the proposed renaming of streets within the East Garrison Community Services District which is the subject of Board Referral No. 2021.25, a corresponding preliminary response presented to the Board by PWFP on January 11, 2022 and a recent status update presented to the Board by PWFP on April 26, 2022. In contrast to the proposed renaming of Rio Road, a public road with no change of addresses, Board Referral No. 2021.25 involves the proposed renaming of private roads or streets and corresponding address changes.

Pursuant to California Streets and Highways Code Section 970.5, the Board of Supervisors is authorized to name or rename public streets or roads, and notices were properly posted in accordance to said Code Section.

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel has approved this ordinance as to form. The Department of Emergency Communications has reviewed and approved the proposed road name (Attachment E). The Monterey Peninsula Regional Park District has approved the proposed road name.

FINANCING:

The only County cost is for staff time to process this item and for staff time and material to produce and install a new road name sign. The cost for new signage will be appropriated in the FY23 PWFP budget. Sufficient appropriations are available in the PWFP Road and Bridge budget (Fund 002, Unit 8558) for PWFP staff time to process this action.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action supports the Board of Supervisors' Strategic Initiative for Economic Development and Public Safety. The proposed ordinance and corresponding road renaming will promote orderly development and will implement Policy CV-2.19 of the Carmel Valley Master Plan (CVMP), Chapter 9.B - CVMP (Amended as of 02/12/2013), an Element/Master Plan of the 2010 Monterey County General Plan Adopted October 26, 2010, which provides as follows:

CV-2.19 The County shall initiate proceedings for an abandonment of the Official Plan Line for the Rio Road Extension.

The proposed ordinance and corresponding road renaming will improve public safety by preventing any confusion for emergency responders and others due to the existence of disconnected roads with the same name.

<u> X </u>	Economic Development
<u> </u>	Administration
<u> </u>	Health & Human Services
<u> </u>	Infrastructure
<u> X </u>	Public Safety

Prepared by: Michael K. Goetz, PLS, County Surveyor

Approved by: Tom Bonigut, PE, Assistant Director of Public Works, Facilities, & Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

DocuSigned by:
Randell Ishii
C09779208FE94F3...

Attachment A - Ordinance No. 499

Attachment B - Ordinance No. 1693

Attachment C - Volume 2 of Official Plan Lines, Page 55

Attachment D - Approved Tentative Map for the Rancho Cañada Village subdivision
(PLN040021-AMD1)

Attachment E - Monterey County Department of Emergency Communications memo

Attachment F - Monterey County Ordinance No. 5342

Legistar File Number: ORD 22-039

Attachment G - Monterey County Ordinance No. 1241 with amendment

Attachment H - Draft Ordinance amending Ordinance No. 499

Attachment I - Draft Board Resolution renaming Rio Road to Village Park Road

Attachment A

ORDINANCE NO. 499

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ADOPTING A STREETS AND HIGHWAYS PLAN AS A PART OF THE MASTER PLAN OF SAID COUNTY SPECIFYING THE PURPOSES AND THE EFFECTS OF THE ADOPTION OF SAID PLAN; ESTABLISHING THE OFFICIAL PLAN LINES OF CERTAIN OF THE STREETS AND HIGHWAYS WHICH ARE A PART OF SAID PLAN; PROVIDING THAT NO BUILDING, STRUCTURE OR OTHER SPECIFIED IMPROVEMENT SHALL BE ERECTED OR PLACED WITHIN SUCH OFFICIAL PLAN LINES, WITH PROVISION FOR ADJUSTMENT IN THE APPLICATION OF THIS PROVISION; INSTRUCTING THE COUNTY SURVEYOR OF SAID COUNTY TO CAUSE A FULL, TRUE AND CORRECT COPY OF ALL MAPS ESTABLISHING SUCH OFFICIAL PLAN LINES TO BE RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AND FURTHER INSTRUCTING SAID COUNTY SURVEYOR TO POST CERTAIN NOTICES ALONG EVERY STREET OR HIGHWAY FOR WHICH OFFICIAL PLAN LINES ARE OR SHALL HEREAFTER BE ESTABLISHED.

The Board of Supervisors of the County of Monterey, State of California, do ordain as follows:

Section 1.

There is hereby adopted a Streets and Highways Plan as a part of the Master Plan of the County of Monterey, State of California.

Section 2. Said Streets and Highways Plan is set forth on a series of section maps, each of which is entitled "Unit of the Streets and Highways Plan, being a part of the Master Plan of the County of Monterey, State of California." Said section maps, together with all notations, information and data contained thereon, are hereby made a part of this ordinance and constitute Section 3 and certain other sections hereof, each of which other sections is designated by the numeral 3 followed by a letter or letters of the alphabet.

Such section maps as are made a part of this ordinance at the time of the adoption thereof are the sections then completed of a comprehensive Streets and Highways Plan as a part of the Master Plan for the said County of Monterey, which Plan is now in process of preparation by the County Planning Commission of said County. The said Board of Supervisors hereby finds that the public interest, necessity and convenience require that as rapidly as sections of said Streets and Highways Plan shall be completed, the same should be put into full operation and effect; and said Board of Supervisors hereby declares it to be its intention to

amend this ordinance from time to time by including therein subsequent sections of said Streets and Highways Plan as rapidly as the same shall have been prepared and shall have been approved by said Board of Supervisors.

Section 3. (Consists of maps.)

Section 4. The aforesaid Streets and Highways Plan is adopted to protect and promote the public health, safety, peace, morals, comfort, convenience and general welfare and for the accomplishment thereof is adopted for the purposes more particularly set forth as follows:

(1) To provide a definite Plan of development for the said County of Monterey and to guide, control and regulate the future growth of said County in accordance with said Plan.

(2) To provide a guide for the intelligent outlay of the expenditures of said County and the State of California for street and highway purposes.

(3) To obviate the menace to the public safety resulting from inadequate provision of traffic thoroughfares in connection with and as a result of the development of the County.

(4) To prevent deterioration of property values and impairment of conditions making for desirable residential, commercial or industrial development, as the case may be, which would result from a lack of plans designed to assure the orderly harmonious and beneficial development of the County and all sections thereof.

Section 5. The street and highway layout of any subdivision of land of which a map is filed with said County Planning Commission shall be based upon the aforesaid Street and Highway Plan adopted by this ordinance.

Section 6. The adoption of the aforesaid Street and Highway Plan shall in all particulars have the full force and effect provided by law.

Section 7. For the full accomplishment of the purpose of this ordinance, the official plan lines of streets and highways which are a part of the aforesaid Streets and Highways Plan are hereby established as particularly set forth on maps each of which is entitled "Official Plan Lines of _____" (here is inserted the official name of the street or highway) " which is a part of the Streets and Highways Plan of the Master Plan of the County of Monterey, State of California." Said maps and all notations, information and data appearing thereon are hereby made a part of this ordinance and constitute Section 8 and certain other sections thereof, each of which other sections is designated by the numeral "8" followed by a letter or letters of the alphabet.

Section 8. (Consists of maps)

Section 9. No building, structure or other improvement shall hereafter be erected or placed within the official plan lines of streets and highways as adopted by this ordinance, except that this provision shall not apply to garden and agricultural crop planting and such ordinary front yard fence and such more or less non-permanent sprinkling and irrigation structures as, in the opinion of the County Planning Commission will not defeat the purposes of this ordinance.

Section 10. The Board of Supervisors of the County of Monterey, upon the recommendation of the County Planning Commission of said County, may grant adjustments or variances in the strict application of the provisions of Section 9 of this ordinance in cases in which the strict application of such provisions would result in the impairment of substantial property rights.

Application for any adjustment or variance permissible under the provisions of this section shall be made to the said Board of Supervisors and shall include application for a permit to erect or place the building, structure or other improvement. Said Board of Supervisors shall thereupon refer said application to the County Planning Commission.

Upon receipt of any such application the County Planning Commission shall hold at least one (1) public hearing thereon, notice of which shall be given by one (1) publication in a newspaper of general circulation in said County within the ten (10) days next preceding the date of said hearing. At said hearing the applicant shall present a statement and adequate evidence, in such form as the County Planning Commission may require, showing:

(1) That there are special circumstances or conditions attaching to the property upon which the proposed building, structure or other improvement is sought to be erected or placed.

(2) That the granting of the application is necessary for the preservation and enjoyment of substantial property rights.

The County Planning Commission shall thereupon make its decision upon the said application and shall report such decision to the Board of Supervisors within thirty (30) days after receipt of the application from said Board of Supervisors. In recommending the granting of an adjustment or variance under the provisions of this section the County Planning Commission shall designate such conditions in connection therewith as will, in its opinion, result in the adjustment or variance causing the minimum possible interference with the purposes of this ordinance and with the ultimate accomplishment of the objectives of the aforesaid Street and Highway Plan. In reporting its decision to the Board of Supervisors the County Planning Commission shall report its findings with respect thereto and all facts in connection therewith and shall specifically and fully set forth any adjustment or variance which is recommended and the conditions designated in connection therewith.

Upon receipt of such report the Board of Supervisors shall by resolution make its decision upon the aforesaid application. If such decision shall approve the granting of an adjustment or variance, the permit applied for shall be issued, subject to the conditions designated by the County Planning Commission and subject to all other provisions of law. In all cases in which adjustments or variances are granted under the provisions of this section the Board of Supervisors shall require such evidence and guarantees as, upon recommendation of the County Planning Commission, it may deem necessary that the conditions designated in connection with such adjustment or variance are being and will be complied with.

Section 11. All departments, official and public employees of the County of Monterey, State of California, vested with the duty or authority to issue permits or licenses where required by law, shall conform to the provisions of this ordinance and shall issue no such permit or license for uses, buildings, or purposes where the same would be in conflict with the provisions of this ordinance and any such permit or license, if issued in conflict with the provisions of this ordinance, shall be null and void.

It shall be the duty of the Sheriff of the County of Monterey, State of California, and of all officers of said County herein and/or otherwise charged by law with the enforcement of this ordinance to enforce this ordinance and all the provisions of the same.

Any person, firm or corporation, whether as principal agent, employee or otherwise, violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than Three Hundred (300) Dollars or by imprisonment in the County Jail of said County for a term not exceeding three (3) months or by both such fine and imprisonment. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this ordinance is committed, continued or permitted by such person, firm or corporation, and shall be punishable as herein provided.

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this ordinance shall be and the same is hereby declared to be unlawful and a public nuisance and the District Attorney of the said County of Monterey shall, upon order of the Board of Supervisors, immediately commence action or proceedings for the abatement and removal and injunction thereof in the manner provided by law and shall take such other steps and shall apply to such court as may have jurisdiction to grant such relief as will abate and remove such building or structure and restrain and enjoin any person, firm or corporation from setting up, erecting, building, maintaining or using any such building or structure or using any property contrary to the provisions of this ordinance.

The remedies provided for herein shall be cumulative and not exclusive.

Section 12. The County Surveyor of said County is hereby instructed to cause to be recorded in the office of the County Recorder of the County of Monterey, State of California, a full, true and correct copy, duly attested, of the map designating official plan lines which is contained in Section 8 of this ordinance and of each such map hereafter added to said section by the amendment of this ordinance.

Section 13. The said County Surveyor is hereby further instructed to post permanent notices at intervals of not more than one thousand feet along each side of each street and highway for which official plan lines have been established by the adoption of the map contained in Section 8 of this ordinance and of each street and highway for which official plan lines shall hereafter be established by the addition of maps to said section by the amendment of this ordinance. Said Notices shall be painted on wood or metal and shall each contain the following words (with the blanks appropriately filled);

"The width of this street (or other appropriate designation) is established as _____ feet" (or

"This Highway is classified as a (_____) highway") "according to the Master Plan of the County of Monterey. Keep all buildings and other structures hereafter erected outside the lines of such established width, as shown on O.P.L. Map No. _____ recorded in the office of the County Recorder, Court House, Salinas, California, a copy of which is on file in the office of the County Surveyor, Salinas, California.

Section 14. If any section, sub-section, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors of the County of Monterey, State of California, hereby declares that it would have passed this ordinance and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases be declared invalid.

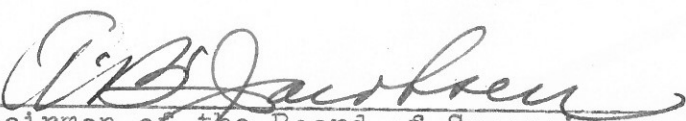
Section 15. This ordinance shall be and is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage.

Regularly passed and adopted by the Board of Supervisors of the County of Monterey, State of California, on this 17th day of March, 1941, by the following vote, to-wit:

Ayes: Supervisors McHarry, Redding, Dudley and Jacobsen.

Noes: None.

Absent: Supervisor Hutchings.


Chairman of the Board of Supervisors
Monterey County, California.

Attest:


Clerk of said Board

Attachment B

1 AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING
2 ORDINANCE NO. 499, BEING THE STREETS AND HIGHWAYS PLAN ORDINANCE OF SAID COUNTY,
3 BY ADOPTING SECTION 3ww AND SECTION 8ww, THEREBY ESTABLISHING OFFICIAL PLAN
4 LINES FOR THE EXTENSION AND CONSTRUCTION OF RIO ROAD IN THE CARMEL VALLEY FROM
5 THE EXISTING RIO ROAD NORTHERLY AND EASTERLY TO AN INTERSECTION WITH THE CARMEL
6 VALLEY ROAD.

7 The Board of Supervisors of the County of Monterey, State of
8 California, do ordain as follows:

9 Section 1:

10 Ordinance No. 499 of the County of Monterey, State of California,
11 being the Streets and Highways Plan Ordinance of said County is hereby amended
12 by the addition thereto of a new section, designated Section 3ww, which section
13 is a map entitled, "Forty-ninth Unit of the Streets and Highways Plan, being
14 a part of the Master Plan of the County of Monterey, State of California," which
15 map is hereby incorporated into and made a part of this Ordinance.

16 Section 2:

17 Ordinance No. 499 of the County of Monterey, State of California,
18 being the Streets and Highways Plan Ordinance of said County, is hereby
19 amended by the addition thereto of a new section, designated Section 8ww, which
20 section is a map consisting of three sheets, entitled, "Official Plan Lines
21 of Rio Road Extension, which is a part of the Streets and Highways Plan of
22 the Master Plan of the County of Monterey, State of California," which map is
23 hereby incorporated into and made a part of this Ordinance.

24 PASSED AND ADOPTED this 23rd day of September, 1969,

25 by the following vote:

26 Ayes: Supervisors Church, Atteridge, Tavernetti,
27 Smith and Branson.

28 Noes: None.

29 Absent: None.

30 W. T. Branson
Chairman of the Board of Supervisors of the
County of Monterey, State of California

31 DATED: September 23, 1969

32 ATTEST: Emmet G. McMenamin
(Clerk of Said Board)

By: Della M. Feuring
Deputy Clerk

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

Ordinance No. 1693 Adopted,)
Amending Ordinance No. 499,)
Streets & Highways Ordinance,)
Establishing Official Plan)
Lines, Rio Road, Carmel Valley. . .)

A public hearing on the matter of the adoption of a proposed amendment to Ordinance No. 499, the Streets and Highways Ordinance of the County of Monterey, having been set for this time, the matter comes on regularly.

There being no protests or objections to any of the provisions of the proposed amendment, and due notice of said hearing having been given as required, Ordinance No. 1693, being an Ordinance amending Ordinance No. 499, thereby establishing official plan lines for the extension and construction of Rio Road in the Carmel Valley from the existing Rio Road northerly and easterly to an intersection with the Carmel Valley Road, is hereby adopted and ordered published upon motion of Supervisor Branson, seconded by Supervisor Smith and carried by the following vote, to-wit:

- AYES: Supervisors Church, Atteridge, Tavernetti, Smith and Branson.
- NOES: None.
- ABSENT: None.

*Published
Get maps*

COUNTY OF MONTEREY, }
STATE OF CALIFORNIA. } ss.

I, EMMET G. McMENAMIN, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a full, true and correct copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page _____ of Minute Book 24, on the 23rd day of September, 1969, and now remaining of record in my office.

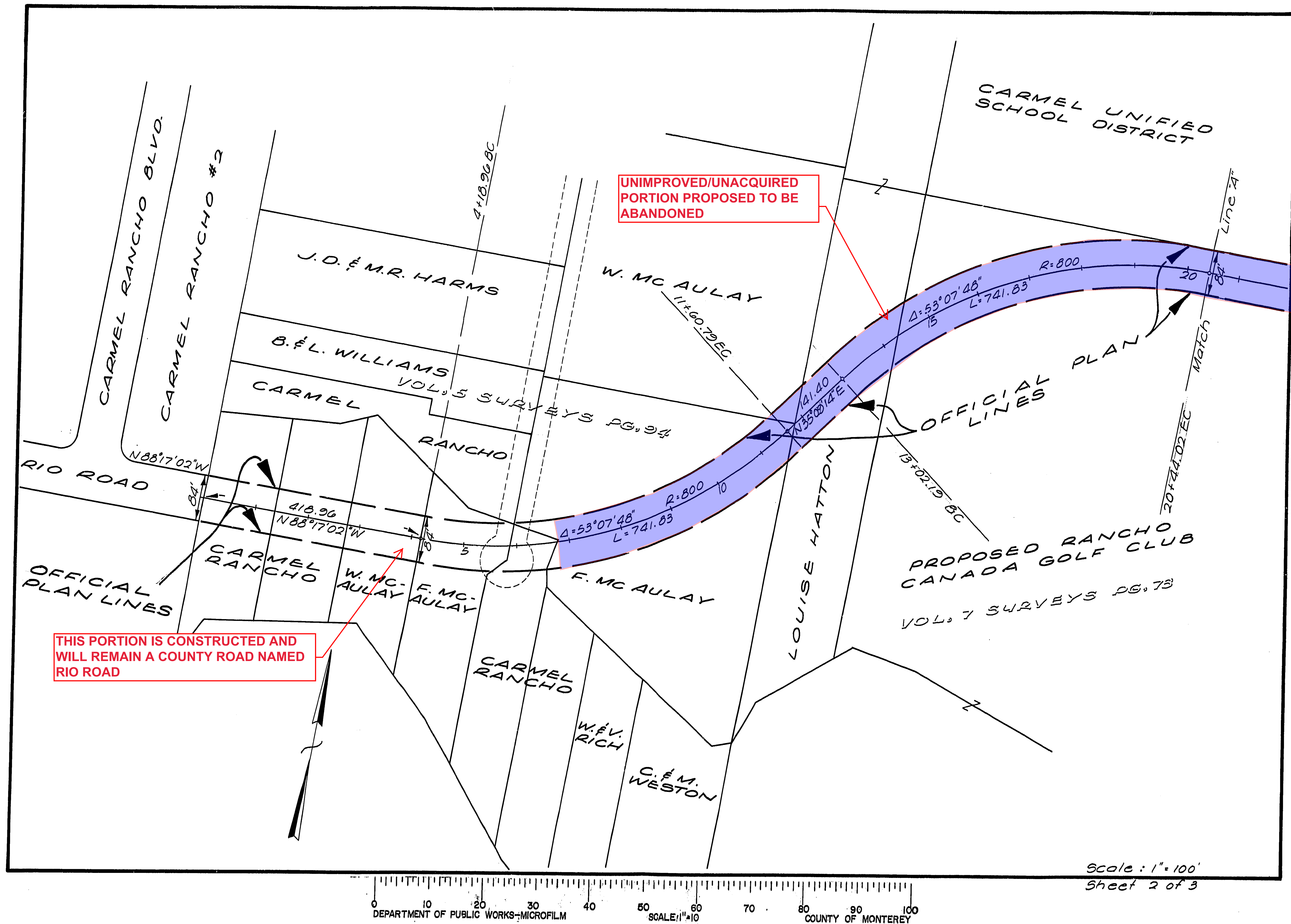
Witness my hand and the seal of said Board of Supervisors this 23rd day of September, 1969.

EMMET G. McMENAMIN,
County Clerk and ex-officio Clerk of the Board
of Supervisors, County of Monterey, State of
California.

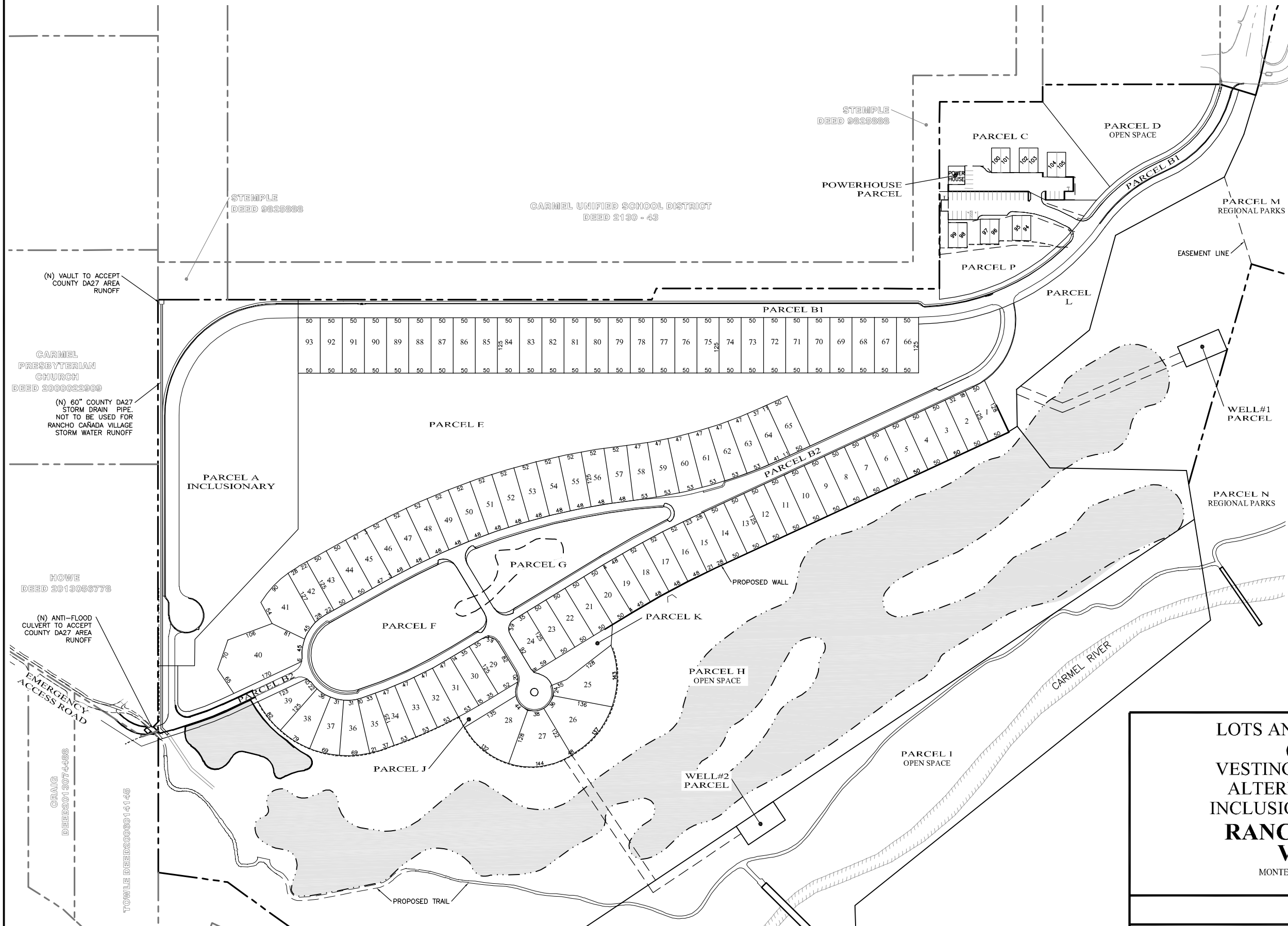
*cc: Road
Plan Com*

By Lella H. Feiring
Deputy.

Attachment C



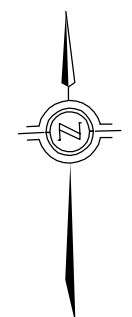
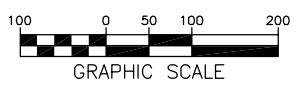
Attachment D



LOT SUMMARY

DESCRIPTION	NUMBER
TOWNHOUSES	12
MARKET RATE	93
PARCEL A INCLUSIONARY	40

LOTS TOTAL 145



LOTS AND PARCELS PLAN
(REVISED)
VESTING TENTATIVE MAP
ALTERNATIVE 6B WITH
INCLUSIONARY BUILDINGS
**RANCHO CAÑADA
VILLAGE**

MONTEREY COUNTY CALIFORNIA
JUNE 2021

SHEET 4



R. Alan Williams
Post Office Box 450
Carmel, California 93921
CA Lic. #484904
(831) 625-1066

LOTS AND PARCELS PLAN

Attachment E



1322 Natividad Road, Salinas, CA 93906 Phone: (831)769-8882 Fax: (831)769-8896 www.co.monterey.ca.us/911

March 31, 2022

Michael Goetz
County Surveyor
Monterey County Public Works, Facilities and Parks

Mr. Goetz,

Per your email request to review the name change for a segment of Rio Road in Carmel off of Carmel Valley Road, Emergency Communications does not foresee an issue with the name change to the proposed, "Village Park Road". Once this change is completed, please let us know so that we can officially change the name in our 9-1-1 mapping system.

Respectfully,

Leslie Ragghianti
Operations Manager

Attachment F

ORDINANCE NO. 5342

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, DISSOLVING THE RESOURCE MANAGEMENT AGENCY AND CREATING A HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT, AND A COMMUNITY SERVICES DEPARTMENT

County Counsel Summary

This ordinance dissolves that County agency known as the Resource Management Agency, creates two separate County departments to be entitled the Housing and Community Development Department, and the Community Services Department, and directs that appropriate changes be made to the County Code and other actions.

WHEREAS, the Monterey County Resource Management Agency (“RMA”) was created to be a “comprehensive local agency to administer, coordinate, and oversee the development and implementation of policies and regulations concerning land use planning, building inspection, code compliance, public works, and general services,” providing efficiencies in the processing of development applications and the provision of services; and,

WHEREAS, from time-to-time additional functions and responsibilities have been assigned to the RMA; and,

WHEREAS, over time, the additional functions and responsibilities assigned to the RMA have created conditions that tended to negate the efficiencies originally intended in the establishment of the RMA; and,

WHEREAS, in 2019, the County retained the firm Citygate Associates, LLC (“Citygate”), to perform a study of the RMA and make recommendations regarding its organization; and,

WHEREAS, on July 28, 2020, Citygate presented its report to the Board of Supervisors with 76 total recommendations regarding a potential reorganization of the structure and functions within the RMA; and,

WHEREAS, also on July 28, 2020, the Board of Supervisors accepted the Citygate report, directed that the RMA be split into two new departments (Housing and Community Development, and Community Services), created two new director positions for each of the new departments, and directed that staff return with a further analysis and implementation plan, including budgetary impacts; NOW, THEREFORE,

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. The above recitals are true and correct.

Ordinance dissolving the RMA and creating a Housing and Community Development Department and Community Services Department

Page 1 of 4

SECTION 2. Intent and purposes.

It is the intent and purpose of the Board of Supervisors to dissolve that County agency known as the Resource Management Agency or “RMA,” and replace it with two new County departments, to be known as the Housing and Community Development Department (“HCD”), and the Community Services Department (“CS”). This ordinance shall govern that process, and provide for the duties of the new departments, notwithstanding any current provision of the Monterey County Code.

SECTION 3. Dissolution of the Resource Management Agency.

As of 12:01 a.m. on November 30, 2020, that County agency known as the Resource Management Agency, or “RMA,” shall cease to exist, and the duties and functions of the RMA shall devolve to two new County departments as described in this ordinance. In addition, the position known as the Resource Management Agency Director shall be eliminated.

SECTION 4. Creation of a Housing and Community Development Department, and a Community Services Department.

A. As of 12:01 a.m. on November 30, 2020, the HCD is created, and shall be organized generally as set forth in Exhibit A, attached hereto and incorporated herein by reference. The previously created Director of the Housing and Community Development Department shall be the department head in charge of the HCD.

B. As of 12:01 a.m. on November 30, 2020, the CS is created and shall organized generally as set forth in Exhibit B, attached hereto and incorporated herein by reference. The previously created Director of the Community Services Department shall be the department head in charge of the CS.

C. The general functions of the RMA are to be assigned to the HCD and CS as set forth in Exhibit C. Additional RMA functions may be assigned to each new department as necessary or appropriate by the County Administrative Officer (“CAO”) upon consultation with the Director of Housing and Community Development and Director of Community Services (collectively, the “Director(s)”), the Human Resources Department and County Counsel.

SECTION 5. Appointment and supervision of the Director of Housing and Community Development and the Director of Community Services.

The CAO is authorized and directed to make appointments to the Director positions whether, in the CAO’s discretion, with or without internal or external recruitment. The Directors shall report to and be supervised by the CAO or the CAO’s designee. The salaries upon appointment shall be at the discretion of the CAO, consistent with all applicable County policies.

Other positions within the two departments shall be filled effective November 30, 2020, by the respective Director with employees within the RMA upon consultation between the Directors, and with the CAO, County Counsel, Human Resources Department and representatives of the appropriate bargaining units, and using existing County class specifications and salary schedule.

Notwithstanding the general organization and functions set forth in Exhibits A through C, and the provisions of Section 4, above, the Directors may organize their respective departments in any manner as they may deem necessary or appropriate to carry out the functions assigned to the respective department. In so doing, the Directors shall be guided, but not bound, by the Citygate report.

Until the Monterey County Code is amended to reflect distribution of duties formerly held by the RMA Director in Chapter 2.27, and the duties of other RMA officials set forth in Chapters 2.28, 2.30, 2.31 and elsewhere, the Directors are authorized to carry out those duties in a manner that reflects the organization and functions set forth in Exhibits A through C. The CAO, upon consultation with the Directors, the Human Resources Department and County Counsel, shall have final decision-making authority regarding the duties of the respective Directors in the event that allocation of duties is not clear or requires consultation.

SECTION 6. Fiscal actions.

For the balance of Fiscal Year 2020-2021, the new departments shall operate within the adopted budget for the RMA. The CAO, Budget Director and Auditor – Controller are authorized and directed to take such actions as may be necessary to fund the activities of the new departments from that adopted budget without changes in appropriations. Any necessary or appropriate budget augmentations to implement the intent and purposes of this Ordinance shall be subject to approval by the Board of Supervisors.

The CAO and Budget Director are directed to prepare the budget for Fiscal Year 2021-2022 reflecting the new departments on a separate basis.

SECTION 7. Other actions.

The CAO, County Counsel, Director of Human Resources, Auditor – Controller, Director of the Information Technology, and the Clerk of the Board of Supervisors are authorized and directed to take such other and further actions as may be necessary or appropriate to implement the intent and purposes of this ordinance including causing appropriate revisions be made to the County Code without further direction or authorization from the Board of Supervisors.

SECTION 8. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 9. Effective date.

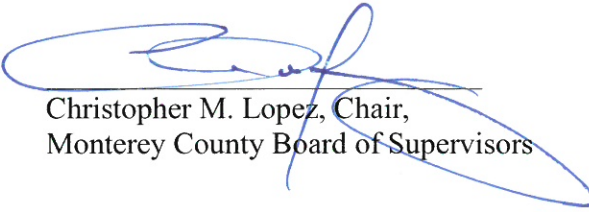
This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this 29th day of Sept, 2020, by the following vote:

AYES: SUPERVISOR ALEJO, PHILLIPS, LOPEZ, PARKER AND ADAMS

NOES: NONE

ABSENT: NONE


Christopher M. Lopez, Chair,
Monterey County Board of Supervisors

A T T E S T :

VALERIE RALPH
Clerk of the Board

By: 

Deputy

APPROVED AS TO FORM:

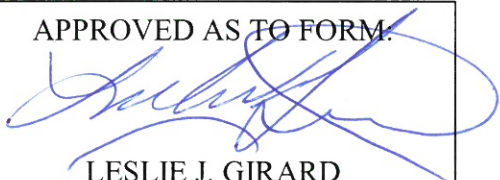

LESLIE J. GIRARD
County Counsel

EXHIBIT A

EXHIBIT A

HOUSING AND COMMUNITY DEVELOPMENT

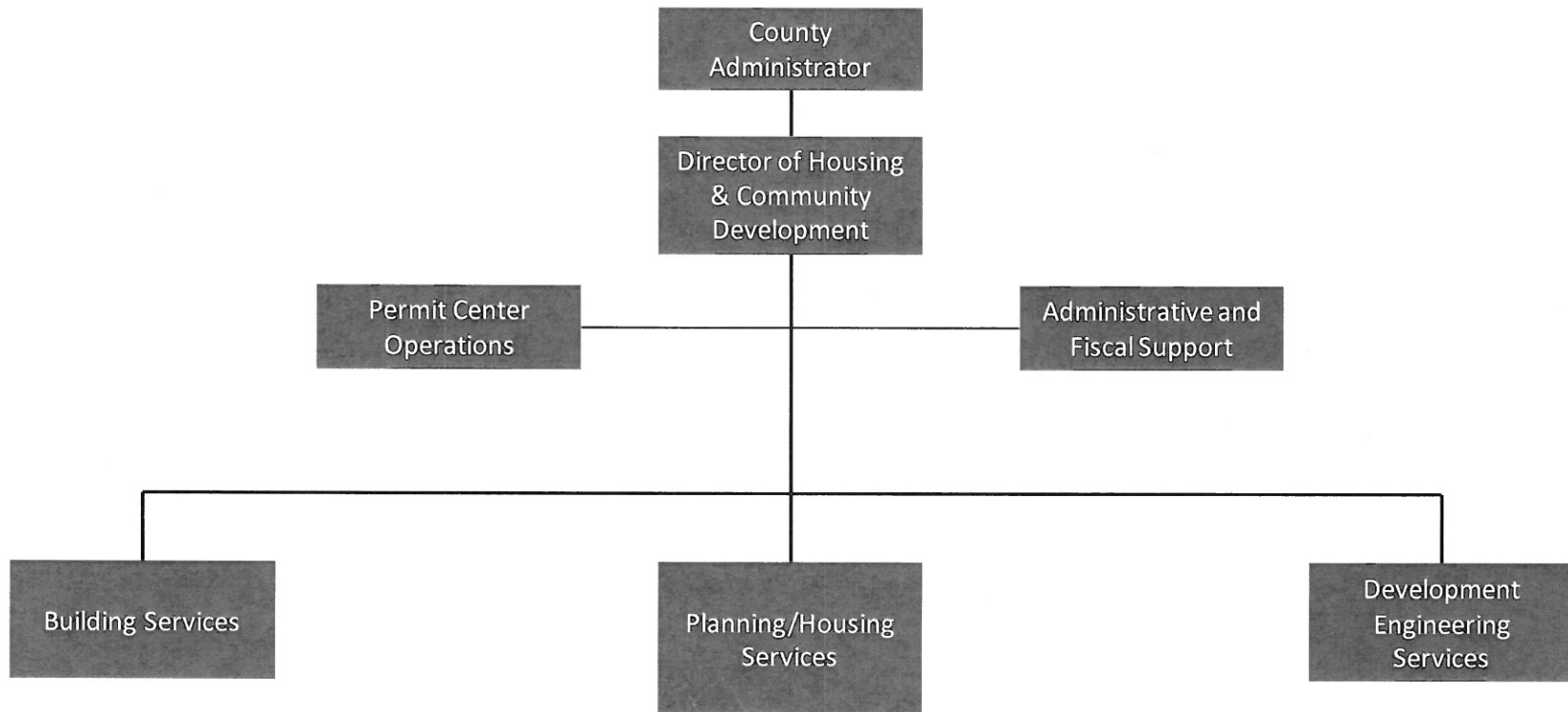


EXHIBIT B

EXHIBIT B COMMUNITY SERVICES

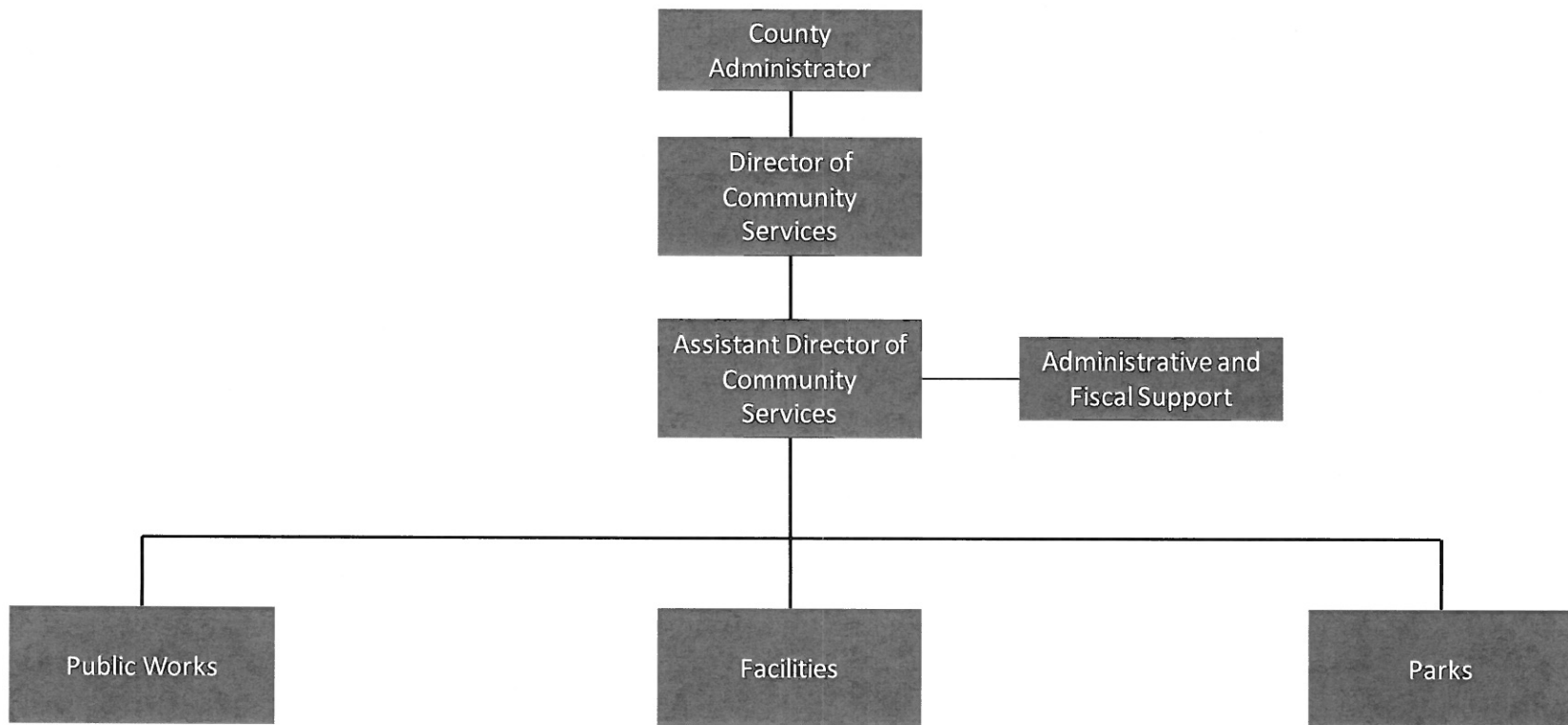


EXHIBIT C

HOUSING AND COMMUNITY DEVELOPMENT

EXHIBIT C
HOUSING AND COMMUNITY DEVELOPMENT FUNCTIONAL RESPONSIBILITIES

HCD Director									
Building Services		Planning Services			Development Services		Administrative Services		
Plan Check	Inspections	Advanced Planning	Current Planning	Housing	Environmental Services Stormwater Programs (from CSD)	Engineering	Special Projects/Programs	Permit Center	Admin & Fiscal Support
Building Plan Check	Bldg. Insp	Plan and Policy Development	Development Review (Discretionary Permit Process, Project Management)	Housing Policy Development	Stormwater Management Program (from CSD)	Encroachment Permits intake, review, inspection	CRFREE (Design, Permit)	Front Counter	Secretarial
Grading Plan Check (from DES)	Code Insp	Policy Implementation	Condition Compliance (Leeper Settlement)	Housing Program Implementation	Floodplain Management Program (from CSD)	Subdivision maps	Carmel Lagoon (Design, Permit)	Call Center	Finance
Erosion Control Plan Check (from DES)	Cannabis Insp	Mines, Oil & Gas	Mitigation Monitoring (MMRP)	CDBG Program	National Flood Insurance Program Activities (from CSD)	Project Review-Traffic	Fort Ord Habitat Management	Special Event Permits	Contracts
Drainage Plan Check - Flood Control (from DES)	Encroachment Insp	Climate Action Plan	CEQA (CE, ND/MND, EIR)	Homeless (Units, not programs or services)	Community Rating System Activities (from CSD)	Subdivision Improvement Agreements	San Lucas Water (Design, Permit)	Ombudsperson	Grants
	SWPP Compliance, Inspection (from DES)	General Plan(s)	Committees and Commissions (LUACs, PC, ZA, Airport)	HOME Program	NPDES Muni General Permit-Storm Drain System (from CSD)	Lot Line Adjustments	Successor Agency, Oversight Board	SOPs	Files
		Land Use Plans		ESG advisory	WRA LU Functions	Certificates of Compliance	FORA Dissolution	MPWMD Water Allocation Tracking	Records
		Ordinances			Elevation Certification	Franchise Agreements (intake, review, inspection)	Inclusionary Housing Admin	Reception	Budget
		Long Term Sustainable Water Supply				Maintenance Agreements (intake, review, inspection)	Annual Report - Housing	Cashier	LU Fees
		Wm Act (Ag Com?)						Reservations	CDBG Admin
		Mills Act						Encroachment Permit (Intake)	Traffic Fees
		Annual Reporting (GP, Housing, Mills Act, etc.)						Tree Permits	
		Housing Element						Design Approvals	
								Transportation Permits (Intake only)	
								Addresses	

Footnotes:

Black text under Functional Task column reflects functions identified in Citygate report

Rex text shaded in salmon reflects tasks identified by Citygate under a different functional area than what RMA is recommending.

Black text under Functional Task column with blue shading reflects functions identified in Citygate report under HCD but RMA recommending under CSD

Black text under Functional Task column with green shading reflects functions identified in Citygate report

Red text under Functional Task column reflects additional functional tasks identified by RMA

Blue text under functional task column reflects Citygate recommendations under CSD Department

Red text under Functional Task column shaded orange reflects functional areas under CSD to be contracted under HCD as identified by RMA

Blue Text shaded in grey reflects tasks identified by Citygate under CSD, but RMA recommends under HCD

Red Text shaded in grey reflects tasks identified by RMA and based on Citygate recommendations would fall under CSD, but RMA recommends under HCD

COMMUNITY SERVICES

EXHIBIT C
COMMUNITY SERVICES FUNCTIONAL RESPONSIBILITIES

CS Director

Public Works (Roads and Bridges)				Facilities (Buildings and Grounds)		Parks	Administrative and Fiscal Support
Infrastructure Maintenance and Op	Capital Projects (Engineering Services)	Capital Projects (Engineering Services)	Traffic Engineering	Capital Projects (Architectural Services)	Facility Maintenance and Op	Open Space, Parks, and Trails	
Litter Abatement	Engineering Design	Engineering Design	Speed Surveys and Traffic Calming	Architectural Design	Property Management	Event, Museum, and Recreation Programming	Secretarial
Road and Bridge Maintenance	Road and Bridge Construction	Road and Bridge Construction	Signal Maintenance	Construction Management-Bldgs	Facility Trades	Park Planning and Development	Finance
Street Sweeping	NPDES Construction General Permit (PW Construction Projects)	NPDES Construction General Permit (PW Construction Projects)	Transportation Permits	NPDES Industrial General Permit-Facilities Projects	Lease Management	Parks Grounds Maintenance (Parks B&G)	Contracts
Sandbar Management	SWPP Permits - Project related	SWPP Permits - Project related	Transportation Coordination (TAMC, CalTrans, etc.)	SWPP Permits - Project related	Facility Grounds	Contracts and Concessions (Naci, LSR/CAO)	Grants (Billing)
Cannabis Eradication	Asset Management-pavement and bridges	Grant Acquisition & Reporting	TAMC TAC	Asset Management-facilities	Building Maintenance	Ranger (armed) Operations	Files (via HCD)
Hazardous Spills (Sanitation)	Infrastructure Inventory/Assessment	CIP planning and funding (i.e. 5-year CIP)		Grant Acquisition & Reporting	Infrastructure Inventory/Assessment	Event/Facility Agreements	Records (via HCD)
Pot Holes	CIP planning and funding (i.e. 5-year CIP)	Project Scoping and Development		Infrastructure Inventory/Assessment	Security (contracted)	Water&Util Systems	Budget
	Project Scoping and Development	Project Design and Environmental documentation		CIP planning and funding (i.e. 5-year CIP)	Janitorial (contracted)		SB1
	Project Design and Environmental documentation	Public Relations/Outreach (PIO) for CIP projects		Project Scoping and Development			Measure X
	Public Relations/Outreach (PIO) for CIP projects	Construction Management - Road and Bridge		Project Design and Environmental documentation			FEMA
	Construction Management - Road and Bridge	CSA (Spec. Dist.) Admin (CSAs/CSDs, San Jerardo) - From PW Maint		Public Relations/Outreach (PIO) for CIP projects			FHWA
	Condition surveys and reporting - Pavement	Closed Landfills (from PW Maint)		Construction Management - Facilities			HUTA
	Annual inspection/evaluations and documentation - Bridges	Sanitation Permits (from PW Maint)		Condition surveys and reporting - Facilities			Special Districts Budget
	Surveyor (from HCD)	County Service Area Projects/Maintenance					Park Fees

EXHIBIT C
COMMUNITY SERVICES FUNCTIONAL RESPONSIBILITIES

CS Director

Public Works (Roads and Bridges)				Facilities (Buildings and Grounds)		Parks	Administrative and Fiscal Support
Infrastructure Maintenance and Op	Capital Projects (Engineering Services)	Capital Projects (Engineering Services)	Traffic Engineering	Capital Projects (Architectural Services)	Facility Maintenance and Op	Open Space, Parks, and Trails	
	Monumentation Preservation (from HCD)	San Jerardo					SOPs
	R/W maintenance (from HCD)	Sanitation District Disposition					Call Center (via HCD)
	Project Construction surveys (from HCD)	County Service Area Committees (Admin, Budget)					
	Survey Records Management (from HCD)	Underground Utility District (20A)					
	Project regulatory permits and monitoring	Project regulatory permits and monitoring					
	Encroachment Permits - issuance and approval (contract to HCD for intake, review, inspection)						
	Franchise Agreements - issuance and approval (contract to HCD for intake, review, inspection)						
	Maintenance Agreements - issuance and approval (contract to HCD for intake, review, inspection)						

Footnotes:

Black text under Functional Task column reflects functions identified in Citygate report

Red text shaded in salmon reflects tasks identified by Citygate under a different functional area than what RMA is recommending.

Black text under Functional Task column reflects functions identified in Citygate report under HCD but RMA recommending under CSD

Black text shaded in green under Functional Task column reflects functions identified in Citygate report

Red text under Functional Task column reflects additional functional tasks identified by RMA

Blue text under functional task column reflects Citygate recommendations under CSD Department

Red text under Functional Task column shaded orange reflects functional areas under CSD to be contracted under HCD as identified by RMA

Blue Text shaded in grey reflects tasks identified by Citygate under CSD, but RMA recommends under HCD

Red Text shaded in grey reflects tasks based on Citygate recommendations would fall under CSD, but RMA recommends under HCD

Red Text shaded in yellow reflects tasks identified by Citygate under a different functional area than being recommended by RMA

EXHIBIT D

EXHIBIT D

Amend Personnel Policies and Practices Resolution (PPPR) No. 98-394 Appendices A & B and Section A.10.2 Assistant Department Heads Designated to Retitle Classification:

Title	Class Code
From: Assistant Director of Resource Management Agency	12C23
To: Assistant Director of Community Services	12C23

Add Positions:

Amend Resource Management Agency Budget 3000-RMA013 Unit 8222

Class Code	Position Title	Position Number	Position Increase/Decrease	Revised Total FTE
11A34	Director of Housing & Community Development	0001	1.0	1.0

Amend Resource Management Agency Budget 3000-RMA012 Unit 8195

11A33	Director of Community Services	0001	1.0	1.0
-------	--------------------------------	------	-----	-----

Delete Positions:

Amend Resource Management Agency Budget 3000-RMA013 Unit 8222

Class Code	Position Title	Position Number	Position Increase/Decrease	Revised Total FTE
11A27	Resource Management Agency Director	0001	(1.0)	0.0

Amend Resource Management Agency Budget 3000-RMA012 Unit 8195

11A24	Deputy Director Public Works and Facilities	0001	(1.0)	0.0
-------	---	------	-------	-----

Amend Resource Management Agency Budget 3000-RMA110 Unit 8529

11A23	Deputy Director Land Use and Community Development	0001	(1.0)	0.0
-------	--	------	-------	-----

Transfer administrative oversight of the Housing function, including incumbents of the below identified positions, from the County Administrative Office to the Housing and Community Development Department:

Dept-Unit	Class Code	Position Title	Position Number
1050-8514	14M22	Housing Program Manager	0001
1050-8514	41F32	Redevelopment & Housing Project Analyst III	0003
1050-8514	41F31	Redevelopment & Housing Project Analyst II	0001
1050-8514	41F30	Redevelopment & Housing Project Analyst I	0001
1050-8514	80A32	Senior Secretary	0001

Attachment G

ORDINANCE NO. 1241

AN ORDINANCE ADOPTING PRECISE PLANS FOR STREET
NUMBERING IN ORDER TO PROVIDE AN ORDERLY SYSTEM
FOR THE NUMBERING OF BUILDINGS IN THE COUNTY OF
MONTEREY.

The Board of Supervisors of the County of Monterey,
State of California, do ordain as follows:

Section 1. Purpose. The Board of Supervisors finds that the public interest, safety, welfare and convenience require the establishment of a numbering system of street and road addresses in a uniform plan for the County of Monterey. For the accomplishment of this objective, the Board hereby establishes a uniform numbering of street and road addresses for the county which shall be known as the Monterey County House Numbering System.

Section 2. The System. The Monterey County House Numbering System shall become effective in the unincorporated area of the County of Monterey in which house numbering maps have been adopted in accordance with Section 7 hereof and may be established within any city of the county upon its adoption by said city.

Section 3. Base Lines. The Monterey County House Numbering System shall consist of base lines established in accordance with the Monterey County House Numbering Plan adopted by the Board of Supervisors on June 12, 1961, as a part of the Master Plan of the County. These base lines are established from the most northerly point of the county with numbers progressing southerly therefrom and from the most westerly point of the county with numbers progressing in an easterly direction generally in accordance with the distance from the base lines.

Section 4. System to be Shown on Maps. The Monterey County House Numbering System shall consist of a map or maps of Monterey County or portions thereof adopted under Section 7 of this ordinance, upon which map or maps the base lines shall be shown or designated and by index lines indicate the principal locations at which major units of the numbering system shall commence. Each map shall be designated as part of the system in accordance with the method outlined in Section 7 of this ordinance.

Section 5. Proper Number to be Assigned: The Monterey County House Numbering Plan adopts a system of 1000 numbers for 5000 feet in the north-south direction and east-west direction. For purposes of determining the proper number for a particular location, on winding roads or roads not on the base lines, the number shall be proportional to the distances between the numbers next adjacent to the location on either side of the major unit line or lines if no numbers have been previously established on adjoining properties. For purposes of determining whether a number shall

1 be odd or even, it is determined that odd numbers
2 shall be on the left hand side of the street or road
3 and even numbers shall be on the right hand side of
the street or road in the direction of increasing
magnitude of numbers.

4 Section 6. Display of Numbers. The office, person or department
5 designated to enforce, establish, continue, operate
6 and maintain the Numbering System shall give notice
7 to occupants or owners of land or buildings which are
8 assigned or reassigned numbers under the System,
9 which notice shall contain the old number, if any,
10 the new number or the number reassigned to a particular
11 building or parcel of land, and the date on which
12 the new number shall become effective. Within ten
13 (10) days of the effective date of the notice of
14 number assigned or reassigned, the occupants or owners
15 of the property or building shall cause the number
16 to be displayed upon the building or land in such
17 manner as to be visible from the street or road upon
which the land or building fronts, and shall remove
or obscure from public view any old or previous
number not in accordance with the System, provided
that in rural areas where buildings are removed
considerable distance from any public street or road,
or where rural free delivery of mail is provided, the
number may be displayed upon receptacles designed
for the delivery of mail. Nothing contained herein
shall be construed to prohibit the display of a
proper number in accordance with the System upon any
road or driveway leading to buildings removed a sub-
stantial distance from the public road or street upon
which the subject site abuts.

18 Section 7. House Numbering Maps. There is hereby adopted a
19 system of maps designated as parts of the Monterey
20 County House Numbering System. The said maps when
21 adopted shall be a part of this ordinance, and
22 shall designate the portions of Monterey County in
23 which a precise numbering system has been adopted.
Such maps when adopted, and all notations, references,
and other information shown thereon shall be a part
of this ordinance and shall be designated as Section 7
followed by a number in the order of adoption.

24 Section 8. Designation of Enforcing Official. The System or
25 portions thereof shall be continued, enforced, operated
26 and maintained within the unincorporated area of the
27 County of Monterey by the office, person or department
designated by resolution of the Board of Supervisors,
and assigning of property numbers within such area
shall be done in accordance with the System.

28 Section 9. Enactment. This Ordinance shall be and is hereby
29 declared to be in full force and effect from and after
thirty days after the date of its passage.

30 Before the expiration of fifteen (15) days after passage
31 of this Ordinance, it shall be published once with the names of
32 the members voting for and against the same in _____

1 Salinas Californian , a newspaper published in the said
2 County of Monterey.

3 ADOPTED by the Board of Supervisors of the County of
4 Monterey on the 2nd day of July , 1962,
5 by the following vote:

6 AYES: Supervisors Deaver, Talcott, Henry, Echeberria
7 and Hudson.

8 NOES: None.

9 ABSENT: None..

10
11
12
13
14
15 Burt Z. Talcott
16 Chairman of the Board of Supervisors
17 of the County of Monterey, State of
18 California.

19
20 ATTEST:

21 EMMET G. MOMENAMIN

22 County Clerk and ex-officio Clerk of
23 the County of Monterey, State of California

24 By E. Elizabeth A. Baron
25 Deputy

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

AMEND RECOMMENDED)
STANDARDS FOR ROAD)
NAMING AND NUMBERING. . . .)

The Board requested that the Public Works Director and the Director of Communications review the County-wide standards for acceptance of private roads into the County House Numbering System, at the Board meeting of June 3, 1986.

The Public Works Director and the Director of Communications reviewed the County-wide standards for acceptance as requested of private roads into the County House Numbering System and concluded that we amend the recommended standards for road naming and numbering as follows:

1. Upon referral from the Board of Supervisors of a petition from property owners to name or rename a private road upon which their property faces and to number their properties, the road shall be checked for width of road, type of surfacing, condition of road and number of parcels served.
2. The private road must meet the following standards before a recommendation for approval is made to the Board of Supervisors:
 - a. Four or more developed parcels and/or four residences must be served by the private road.
 - b. Road must be paved and at least 12 feet in width unless it has been in existence for at least five years, and the condition of the road meets with the approval of the Director of Public Works.
 - c. A turnaround of size and adequate to accommodate emergency vehicles must be provided unless the road is connected on both ends to other approved access.

3. To avoid duplication and/or possible confusion due to identical or similar names all proposed names and house numbers must be approved by the Director of Public Works and the Director of Communications or their designees.
4. If the private road meets all the stated conditions, a public hearing shall be set before the Board of Supervisors. If the street name and numbering is approved, the property owners shall provide a street name sign in accordance with the approved private road sign standard. In addition, a standard stop sign facing the private road at the intersection may be required.

Upon motion of Supervisor Shipnuck, seconded by Supervisor Karas, the Board hereby amends and adopts the amended recommended standards for road naming and numbering.

PASSED AND ADOPTED this 13th day of January 1987, by the following vote, to-wit:

AYES: Supervisors Del Piero, Shipnuck, Petrovic, Karas & Strasser Kauffman.

NOES: None.

ABSENT: None.

I, ERNEST K. MORISHITA, 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 at page -- of Minute Book 58, on Jan. 13, 1987
Dated: Jan. 13, 1987

ERNEST K. MORISHITA, Clerk of the Board
of Supervisors, County of Monterey,
State of California.

d-140,ros02187.bdo

By *Adrian Arce*

Deputy

Attachment H

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING ORDINANCE NO. 499, THE STREETS AND HIGHWAYS PLAN OF
MONTEREY COUNTY**

County Counsel Summary

This ordinance amends Ordinance No. 499, which was adopted in 1941, to delete portions of the Official Plan Lines that were added in 1969 as Sections 3ww and 8ww by Ordinance No. 1693. The subject public road is Rio Road in Carmel Valley. In 2010, the Board of Supervisors adopted the 2010 Monterey County General Plan, which includes the Carmel Valley Master Plan. Policy CV-2.19 of the Carmel Valley Master Plan states: "The County shall initiate proceedings for an abandonment of the Official Plan Line for the Rio Road Extension." It is therefore appropriate to amend Ordinance 499 to delete the unacquired, unconstructed portion of said Sections 3ww and 8ww.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. FINDINGS AND PURPOSE.

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey ("County") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. Ordinance No. 499 was adopted in 1941 establishing the Streets and Highways Plan of Monterey County. It included a declaration that the ordinance would be amended from time to time.

C. In 1969, Ordinance No. 1693 amended Ordinance No. 499 of to add Section 3ww and Section 8ww. These additions established Official Plan Lines for an extension of Rio Road from Carmel Rancho Boulevard to Carmel Valley Road, but only small segments of this extension were acquired as public road right-of-way and constructed.

D. In 2010, the Board of Supervisors adopted the 2010 Monterey County General Plan, which includes the Carmel Valley Master Plan. Policy CV-2.19 of the Carmel Valley Master Plan states: "*The County shall initiate proceedings for an abandonment of the Official Plan Line for the Rio Road Extension.*"

E. It is therefore appropriate to amend Ordinance 499 to delete the unacquired, unconstructed portion of said Sections 3ww and 8ww.

SECTION 2. AMENDMENT OF ORDINANCE NO. 499.

A. Ordinance No. 499 is hereby amended to delete from Section 3ww, which section is a map entitled "Forty-ninth Unit of the Streets and Highways Plan, being a part of the Master Plan of the County of Monterey, State of California," the unacquired and unconstructed segments of that portion of Rio Road lying between Carmel Rancho Boulevard and Carmel Valley Road, being approximately that portion from Engineer's Station 6+77.8 to 39+72.02, as said Stations are shown on the map filed in the Office of the County Recorder in Volume 2 of Official Plan Lines, at Page 55.

B. Ordinance No. 499 is hereby amended to delete from Section 8ww, which section is a map consisting of three sheets, entitled, "Official Plan Lines of Rio Road Extension, which is a part of the Streets and Highways Plan of the Master Plan of the County of Monterey, State of California," the unacquired and unconstructed segments of that portion of Rio Road lying between Carmel Rancho Boulevard and Carmel Valley Road, being approximately that portion from Engineer's Station 6+77.8 to 39+72.02, as said Official Plan Lines and Stations are shown on the map filed in the Office of the County Recorder in Volume 2 of Official Plan Lines, at Page 55.

SECTION 3. EFFECTIVE DATE.

This ordinance shall become effective thirty days from the date of final passage and adoption.

PASSED AND ADOPTED this _____ day of _____ 2022,
by the following vote:

AYES:


NOES:

ABSENT:

Mary L. Adams, Chair,
Monterey County Board of Supervisors

ATTEST:
VALERIE RALPH
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

Kelly L. Donlon
Assistant County Counsel

Attachment I

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

Resolution No. _____

Adopt a Resolution:

- a. Pursuant to the California Environmental)
Quality Act (CEQA) finding that adoption of a)
road renaming involves a negligible change to)
existing streets and such minor alterations to)
land qualify respectively as Class 1 and Class 4)
categorical exemptions pursuant to CEQA)
Guidelines Sections 15301(c) – existing)
highways and streets; and 15304 – minor)
public alterations in the condition of the land)
and there are no exceptions pursuant to CEQA)
Guidelines Section 15300.2; and)
- b. Pursuant to California Streets and Highways)
Code Section 970.5 renaming the isolated)
portion of a public road, being that portion of)
Rio Road that intersects with Carmel Valley)
Road, to Village Park Road;)

WHEREAS, the Director of Public Works, Facilities and Parks (PWFP) has determined that having two non-connected segments of a public road bearing the same name creates confusion and may increase emergency response time; and

WHEREAS, the Director of PWFP has requested that the Board of Supervisors rename the small portion or segment of Rio Road that intersects with Carmel Valley Road; and

WHEREAS, said portion of Rio Road has been acquired by the County as public road right-of-way and was constructed in 1974 as a public road; and

WHEREAS, this action involves renaming a portion or segment of Rio Road, being a public road with no change of addresses, and as such, this road renaming is significantly different from the proposed renaming of streets within the East Garrison Community Services District which is the subject of Board Referral No. 2021.25, for which a corresponding preliminary response was presented to the Board by PWFP on January 11, 2022, and for which a recent status update was presented to the Board by PWFP on April 26, 2022; and

WHEREAS, the Department of Emergency Communications has reviewed and approved the proposed new road name; and

WHEREAS, the Board of Supervisors is authorized to name or rename public streets or roads pursuant to California Streets and Highways Code Section 970.5.

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Supervisors of the County of Monterey hereby:

1. Finds that the foregoing recitals are true and correct and so declares and determines.
2. Pursuant to the provisions of California Streets and Highways Code Section 970.5, renames that certain portion of Rio Road northerly of Engineer's Station 39+72.02, per the stations shown on said Official Plan Lines shown on the map filed in the Office of the County Recorder in Volume 2 of Official Plan Lines, at Page 55; the new name being Village Park Road.
3. Directs the Clerk of the Board of Supervisors to submit a certified copy of the Resolution to the County Recorder for recordation.

PASSED AND ADOPTED on this ____ day of _____ 2022, upon motion of Supervisor _____, seconded by Supervisor _____, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, 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 _____, for the meeting on _____, 2022.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
_____, Deputy



Monterey County

Item No.20

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-891

September 27, 2022

Introduced: 9/13/2022

Current Status: Scheduled PM

Version: 1

Matter Type: General Agenda Item

Consider making appointments to the Primary and Alternate Public Member Director positions on the Board of Directors of the Salinas Valley Basin Groundwater Sustainability Agency ("SVBGSA") for terms commencing July 1, 2022, through June 30, 2025.

RECOMMENDATION:

It is recommended that the Board of Supervisors consider making appointments to the Primary and Alternate Public Member Director positions on the Board of Directors of the Salinas Valley Basin Groundwater Sustainability Agency ("SVBGSA") for terms commencing July 1, 2022, through June 30, 2025.

SUMMARY:

The County makes appointments to certain Director positions (Primary and Alternate) on the Board of Directors of the SVBGSA. Three of those positions had terms expiring on June 30, 2019; the Board of Supervisors previously made appointments to two of the Agricultural Director positions, but the Public Member positions remain open for appointment and the Board of Supervisors should consider making such appointments.

DISCUSSION:

The SVBGSA, a Joint Powers Authority ("JPA") created by the County, the Water Resources Agency, various cities and other public entities in the Salinas Valley, is governed by an 11-member Board of Directors. Each Director position has a Primary and an Alternate Director, and each represents a different interest or stakeholder group generally as required by the Sustainable Groundwater Management Act. As set forth in the Joint Powers Authority agreement forming the SVBGSA, various members of JPA make appointments to the Director positions.

The County is responsible for the appointments of a Primary and Alternate for each of 7 Director positions: A) one representing Other GSA Eligible Agencies; B) four representing agricultural interests; C) one representing environmental interests; and D) one Public Member representing interests not otherwise represented on the Board. Generally, the Director positions have three-year terms; however, so that not all Director positions would expire at the same time, a number of the positions were given two year terms at the start. The permanent Board was appointed effective July 1, 2017, and three of the County's appointments were given two-year terms, expiring on June 30, 2019. These Directors positions are two Agricultural Directors and the Public Member Director. The positions were filled again for terms commencing on July 1, 2019 and expiring on June 30, 2022, and, as mentioned, the Board of Supervisors previously made appointments to the Agricultural Director

positions. Although the terms of the Public Member positions have expired, the JPA agreement provides that Directors serve until their successor is appointed.

The JPA agreement sets forth general qualifications for Directors:

1. General education and/or knowledge, interest in and experience relating to the control, storage, and beneficial use of groundwater;
2. General understanding and knowledge of the Basin and all its beneficial users;
3. Working knowledge and understanding of how to develop strategic plans, policies, programs, and financing/funding mechanisms;
4. Genuine commitment to collaboratively work together to (a) achieve groundwater sustainability through the adoption and implementation of a Groundwater Sustainability Plan for the Salinas Valley Groundwater Basin, and all its beneficial users; and (b) provide for the ongoing sustainable management of the basin;
5. General knowledge and understanding of one or more of the different facets (administration, financial, legal, organizational, personnel, etc.) needed for a successful and productive organization;
6. Ability to commit the time necessary, estimated at a minimum 15 - 20 hours per month, to responsibly fulfill their commitment to the organization. This includes, but is not limited to: (a) Board meetings, (b) Board training, (c) analyzing financial statements and technical reports, (d) reviewing Board documents before Board meetings, (e) attending Board meetings, and (f) serving on committees to which they are assigned; and
7. A permanent resident within the Basin, or a representative of an agency with jurisdiction, or a business or organization with a presence, within the Basin.

Each of the Director positions has specific qualifications; the Public Member must be: i) a rural residential well owner; ii) an industrial processor; iii) a Local Small or State Small Water System (public water systems with more than 1 but less than 15 connections); or iv) a mutual water company serving residential or agricultural connections, or both.

The Public Member Director position is an application process, with the application made to the SVBGSA, whose Board of Directors considers the applicants and forwards qualified applicants to the Board of Supervisors for consideration. The SVBGSA Board may include recommendations in its transmission.

The SVBGSA received 5 applications by the close of the application process (August 26, 2022), and the SVBGSA Board of Directors considered them at its meeting of September 8, 2022. The SVBGSA Board has forwarded the following nominations for consideration by the Board of Supervisors - Ms. Caroline Chapin for the Primary Director, and Mr. Robert Rodoni for the Alternate. Ms. Chapin is the current Primary Director and has continued to serve until a successor is

chosen; Mr. Rodoni indicated that he was only interested in the Alternate Director Position. Therefore, the SVBGSA Board recommends Ms. Chapin for the Primary Director and Mr. Rodoni as the Alternate.

Copies of the nominees' applications are enclosed, with personal information redacted.

OTHER AGENCY INVOLVEMENT:

None.

FINANCING:

There is no impact to the General Fund with the appointments.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

☐ Economic Development
☒ Administration
☐ Health & Human Services
☒ Infrastructure
☐ Public Safety

Prepared and Approved by:

Leslie J. Girard, County Counsel Ext. 5365

Attachments:

Board Report
Applications (2)
Draft Resolution



Monterey County

Board Report

Legistar File Number: 22-891

Item No.

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

September 27, 2022

Introduced: 9/13/2022

Version: 1

Current Status: Agenda Ready

Matter Type: General Agenda Item

Consider making appointments to the Primary and Alternate Public Member Director positions on the Board of Directors of the Salinas Valley Basin Groundwater Sustainability Agency ("SVBGSA") for terms commencing July 1, 2022, through June 30, 2025.

RECOMMENDATION:

It is recommended that the Board of Supervisors consider making appointments to the Primary and Alternate Public Member Director positions on the Board of Directors of the Salinas Valley Basin Groundwater Sustainability Agency ("SVBGSA") for terms commencing July 1, 2022, through June 30, 2025.

SUMMARY:

The County makes appointments to certain Director positions (Primary and Alternate) on the Board of Directors of the SVBGSA. Three of those positions had terms expiring on June 30, 2019; the Board of Supervisors previously made appointments to two of the Agricultural Director positions, but the Public Member positions remain open for appointment and the Board of Supervisors should consider making such appointments.

DISCUSSION:

The SVBGSA, a Joint Powers Authority ("JPA") created by the County, the Water Resources Agency, various cities and other public entities in the Salinas Valley, is governed by an 11-member Board of Directors. Each Director position has a Primary and an Alternate Director, and each represents a different interest or stakeholder group generally as required by the Sustainable Groundwater Management Act. As set forth in the Joint Powers Authority agreement forming the SVBGSA, various members of JPA make appointments to the Director positions.

The County is responsible for the appointments of a Primary and Alternate for each of 7 Director positions: A) one representing Other GSA Eligible Agencies; B) four representing agricultural interests; C) one representing environmental interests; and D) one Public Member representing interests not otherwise represented on the Board. Generally, the Director positions have three-year terms; however, so that not all Director positions would expire at the same time, a number of the positions were given two year terms at the start. The permanent Board was appointed effective July 1, 2017, and three of the County's appointments were given two-year terms, expiring on June 30, 2019. These Directors positions are two Agricultural Directors and the Public Member Director. The positions were filled again for terms commencing on July 1, 2019 and expiring on June 30, 2022, and, as mentioned, the Board of Supervisors previously made appointments to the Agricultural Director

positions. Although the terms of the Public Member positions have expired, the JPA agreement provides that Directors serve until their successor is appointed.

The JPA agreement sets forth general qualifications for Directors:

1. General education and/or knowledge, interest in and experience relating to the control, storage, and beneficial use of groundwater;
2. General understanding and knowledge of the Basin and all its beneficial users;
3. Working knowledge and understanding of how to develop strategic plans, policies, programs, and financing/funding mechanisms;
4. Genuine commitment to collaboratively work together to (a) achieve groundwater sustainability through the adoption and implementation of a Groundwater Sustainability Plan for the Salinas Valley Groundwater Basin, and all its beneficial users; and (b) provide for the ongoing sustainable management of the basin;
5. General knowledge and understanding of one or more of the different facets (administration, financial, legal, organizational, personnel, etc.) needed for a successful and productive organization;
6. Ability to commit the time necessary, estimated at a minimum 15 - 20 hours per month, to responsibly fulfill their commitment to the organization. This includes, but is not limited to: (a) Board meetings, (b) Board training, (c) analyzing financial statements and technical reports, (d) reviewing Board documents before Board meetings, (e) attending Board meetings, and (f) serving on committees to which they are assigned; and
7. A permanent resident within the Basin, or a representative of an agency with jurisdiction, or a business or organization with a presence, within the Basin.

Each of the Director positions has specific qualifications; the Public Member must be: i) a rural residential well owner; ii) an industrial processor; iii) a Local Small or State Small Water System (public water systems with more than 1 but less than 15 connections); or iv) a mutual water company serving residential or agricultural connections, or both.

The Public Member Director position is an application process, with the application made to the SVBGSA, whose Board of Directors considers the applicants and forwards qualified applicants to the Board of Supervisors for consideration. The SVBGSA Board may include recommendations in its transmission.

The SVBGSA received 5 applications by the close of the application process (August 26, 2022), and the SVBGSA Board of Directors considered them at its meeting of September 8, 2022. The SVBGSA Board has forwarded the following nominations for consideration by the Board of Supervisors - Ms. Caroline Chapin for the Primary Director, and Mr. Robert Rodoni for the Alternate. Ms. Chapin is the current Primary Director and has continued to serve until a successor is

chosen; Mr. Rodoni indicated that he was only interested in the Alternate Director Position. Therefore, the SVBGSA Board recommends Ms. Chapin for the Primary Director and Mr. Rodoni as the Alternate.

Copies of the nominees' applications are enclosed, with personal information redacted.

OTHER AGENCY INVOLVEMENT:

None.

FINANCING:

There is no impact to the General Fund with the appointments.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

☐ Economic Development
☒ Administration
☐ Health & Human Services
☒ Infrastructure
☐ Public Safety

Prepared and Approved by:



Leslie J. Girard, County Counsel Ext. 5365

Attachments:

Board Report
Applications (2)
Draft Resolution

Qualifications: The appointee ***must*** have a basic understanding of the Salinas Valley Groundwater Basin and groundwater in general, an understanding of how to run an organization, and the ability to work collaboratively with other directors coming from diverse constituencies. In addition, the appointee ***must*** be a rural residential Well owner; or a representative of an industrial processor, a Local Small or State Small Water System (a public water system with less than 15 but more than 1 connection), or of a mutual water company.

***Supervisory District in which you reside:**

District 2

***Full Name:**

Caroline D. Chapin

***Date:**

8/22/2022

Information provided by the applicant is not regarded as confidential except for the addresses and phone numbers of references and the applicant's personal information including home and work addresses, phone numbers and email address.

PLEASE NOTE THAT APPOINTEES MAY BE REQUIRED BY STATE LAW AND COUNTY CONFLICT OF INTEREST CODE TO FILE FINANCIAL DISCLOSURE STATEMENTS.

***Current Occupation: (within the last twelve (12) months)**

Construction Executive

***Current License: (Professional or Occupational, date of issue/or expiration including status)**

California Professional Engineer [REDACTED] License Status: Clear

***Other Certifications**

***Other County Board/Commission/Committee on which you serve/have served:**

--

***References (at least two (2) list names and contact phone numbers)**

Guy Giraudo, P.E. [REDACTED]
Tom Adcock [REDACTED]
Monique Dodson, [REDACTED]

***Name and occupation of spouse within the last 12 months, if married (For Conflict of Interest purposes):**

--

***Please explain your reasons for wishing to serve and, in your opinion, how you feel you can contribute (use separate sheet if necessary): (A resume may be attached.)**

During my tenure as the SVBGSA Board's Public Member appointee, I have fulfilled the role responsibly while making informed and careful decisions. I wish to further contribute my time, skills, and knowledge to this important work.

I am extremely qualified to fulfill the Public Member board appointment. I am a native of Monterey County; a rural resident and business owner. I have a bachelor's degree in Civil Engineering and am a licensed Professional Engineer in the State of California. My expertise during the last 18 years of professional licensure have centered on storm water management and storm water pollution prevention. My daily responsibilities in my business involve contract analysis and financial decision making; I have the ability to read and understand complicated budgets, financial reports, and projections.

I am a resident of North Monterey County, and an active manager of the mutual water company that serves my home and business (as well as 26 other rural connections). I am knowledgeable in well and system management, compliance with state and local drinking water regulations, and water quality analytics.

Over the past three years as an SVBGSA Board Member, I have faithfully participated in meetings and have an excellent attendance and punctuality record. I arrive to meetings prepared and informed. I have chaired the Langley Subbasin Committee since its inception and serve on the Budget and Finance Committee. I have shown my dedication to the organization and have undertaken every single vote thoughtfully. I endeavor to continue to serve the organization to the best of my abilities, as I recognize this work and Board to be critically important to our community's future.

**APPLICANTS APPOINTED BY THE BOARD OF SUPERVISORS WILL BE
REQUIRED TO TAKE AND OATH OF OFFICE.**

**All applications will be kept on file for one year from the date of receipt of the
application.**

Complete separate Personal information page.

PERSONAL INFORMATION

The following information is provided in confidence, but may be used by the Board of Supervisors when making the appointment, or be used by the Committee/Commission/Board/Task Force following appointment for purposes of communicating with the appointee.

***Full Name:**

Caroline D. Chapin

***Email Address:**

[REDACTED]

***Home Address:**

[REDACTED]

***Work Address:**

[REDACTED]

***City of Residence**

[REDACTED]

***State**

[REDACTED]

***Zip Code**

[REDACTED]

***City:**

[REDACTED]

***State:**

[REDACTED]

***Zip Code**

[REDACTED]

***Telephone:**

[REDACTED]

***Telephone (cell):**

[REDACTED]

This section for staff use only:

Date received by COB: _____

Date received by GENERAL MANAGER: _____

Date reviewed by GENERAL MANAGER: _____

Recommended by BOD: __ Yes __ No Date: _____

Appointed by BOS: __ Yes Date: _____ If Not appointed check here: _____

Application valid through: _____



SUBJECT: Certification of SVBGSA Board Alternate Director Eligibility Criteria:

1. I am a) permanent resident within the Basin, or b) representatives of an agency with jurisdiction, or a business or organization with a presence within the Basin at the following location:

a. Residential address: [REDACTED] _____

b. Business address: [REDACTED] _____

2. I am a rural residential Well owner at the following address:

OR;

I am a representative of the following industrial process, local or State public water system with 1 to 15 connections

Name: _____

OR;

I am a representative of the following industrial processor, a Local Small or State Small Water System (a public water system with less than 15 but more than 1 connection), or of a mutual water company

Company Name: Hidden Canyon Ranch Mutual Water Company

Applicant's Signature

Aug. 22, 2022

Date



Qualifications: The appointee ***must*** have a basic understanding of the Salinas Valley Groundwater Basin and groundwater in general, an understanding of how to run an organization, and the ability to work collaboratively with other directors coming from diverse constituencies. In addition, the appointee ***must*** be a rural residential Well owner; or a representative of an industrial processor, a Local Small or State Small Water System (a public water system with less than 15 but more than 1 connection), or of a mutual water company.

***Supervisory District in which you reside:**

I own property in District 2 and reside in Aptos, CA

***Full Name:**

Robert J. Rodoni

***Date:**

8-11-2022

Information provided by the applicant is not regarded as confidential except for the addresses and phone numbers of references and the applicant's personal information including home and work addresses, phone numbers and email address.

PLEASE NOTE THAT APPOINTEES MAY BE REQUIRED BY STATE LAW AND COUNTY CONFLICT OF INTEREST CODE TO FILE FINANCIAL DISCLOSURE STATEMENTS.

***Current Occupation: (within the last twelve (12) months)**

Farm Manager for Sunset Farms Inc (Family Owned)

***Current License: (Professional or Occupational, date of issue/or expiration including status)**

None to report

***Other Certifications**

N/A

***Other County Board/Commission/Committee on which you serve/have served:**

Currently MCFB board of directors. Currently SVGSA advisory board rural well owner representative. Past SCFB board of directors. North County Land Use Committee for the North County Plan.

***References (at least two (2) list names and contact phone numbers)**

John Bramers
Norm Groot
Jess Brown
Joel Ackerknecht

***Name and occupation of spouse within the last 12 months, if married (For Conflict of Interest purposes):**

Adriana Rodoni, Housewife

***Please explain your reasons for wishing to serve and, in your opinion, how you feel you can contribute (use separate sheet if necessary): (A resume may be attached.)**

I have worked for our families farms in North Monterey County for the past 28 years and have a good knowledge of farming and water usage in the area.



**APPLICANTS APPOINTED BY THE BOARD OF SUPERVISORS WILL BE
REQUIRED TO TAKE AND OATH OF OFFICE.**

**All applications will be kept on file for one year from the date of receipt of the
application.**

Complete separate Personal information page.

PERSONAL INFORMATION

The following information is provided in confidence, but may be used by the Board of Supervisors when making the appointment, or be used by the Committee/Commission/Board/Task Force following appointment for purposes of communicating with the appointee.

***Full Name:**

Robert Rodoni

***Email Address:**

[REDACTED]

***Home Address:**

[REDACTED]

***Work Address:**

[REDACTED]

***City of Residence**

[REDACTED]

***State**

[REDACTED]

***Zip Code**

[REDACTED]

***City:**

[REDACTED]

***State:**

[REDACTED]

***Zip Code**

[REDACTED]

***Telephone:**

[REDACTED]

***Telephone (cell):**

[REDACTED]

This section for staff use only:

Date received by COB: _____

Date received by GENERAL MANAGER: _____

Date reviewed by GENERAL MANAGER: _____

Recommended by BOD: __ Yes __ No Date: _____

Appointed by BOS: __ Yes Date: _____ If Not appointed check here: _____

Application valid through: _____



SUBJECT: Certification of SVBGSA Board Alternate Director Eligibility Criteria:

1. I am a) permanent resident within the Basin, or b) representatives of an agency with jurisdiction, or a business or organization with a presence within the Basin at the following location:

a. Residential address: _____

b. Business address: _____

2. I am a rural residential Well owner at the following address:

OR;

I am a representative of the following industrial process, local or State public water system with 1 to 15 connections

Name: _____

OR;

I am a representative of the following industrial processor, a Local Small or State Small Water System (a public water system with less than 15 but more than 1 connection), or of a mutual water company

Company Name: _____


Applicant's Signature

8-11-2022
Date

BE IT RESOLVED, by the Board of Supervisors of the County of Monterey as follows:

1. The above recitals are true and correct.
2. Caroline Chapin is hereby appointed as the Primary Director to the Public Member Director position, and Robert Rodoni is appointed the Alternate Director, each for a term ending June 30, 2025.
3. Staff is authorized and directed to take such other and further actions as may be necessary or appropriate to implement the intent and purposes of this Resolution.

PASSED AND ADOPTED on this ____ day of _____, _____, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, 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_____ for the meeting on _____.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
, Deputy



Monterey County

Item No.21

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: OBM 22-132

September 27, 2022

Introduced: 9/19/2022

Current Status: Agenda Ready

Version: 1

Matter Type: Other Board Matters

County Administrative Officer Comments



Monterey County

Item No.22

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: OBM 22-131

September 27, 2022

Introduced: 9/19/2022

Version: 1

Current Status: Agenda Ready

Matter Type: Other Board Matters

New Referrals

Monterey County Board of Supervisors												
MEETING:			September 27, 2022 - Other Board Matters									
SUBJECT:			Board Referrals Update									
DEPARTMENT:			County Administrative Office									
Item #	Brd Ref #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	Item	Report	Status		
1	2016.02	4/12/16	Adams	HCD	County Counsel	Girard/Lundquist	5/10/16	Short Term Rental (STR) Ordinance a) Prioritize completion of the STR rental ordinance by scheduling a final meeting of the STR Working Group; and b) Present a complete STR Ordinance to the Planning Commission; c) County Counsel respond to the Board re. County not engage in code violation citations while the STR ordinance is being developed.	Staff presented the draft vacation rental ordinances to the Board on November 17, 2020, and May 2021 for direction. Based on Board direction, the necessary environmental review will be conducted. Upon completion of the environmental review, the Planning Commission would consider a recommendation to the Board on the environmental documentation and draft ordinance. Referral modified on August 24, 2021 (as part of Board's annual evaluation of referrals) requesting that HCD provide a proposal to address implementation of enforcement at this time, as well as anticipated funding sources for those costs. On October 5, 2021, the Board directed HCD to developed a pilot program to enforce STRs in District 5. On December 8, 2021, staff provided a presentation to the Board on its proposed proactive enforcement and was directed to proceed by returning in January/February 2022 for Board action on staff resources, funding, and a draft ordinance increasing fines for unauthorize STRs. The Budget Committee considered staff resources on January 26, 2022 and subsequently, on March 1, 2022, the Board approved three new staff positions including two Code Compliance Inspector II positions and an Office Assistant position.	Pending		
2	2017.18	9/19/17	Board	CAO		Bokanovich	10/24/17	Request a presentation to the Board of Supervisors with options for commissioner compensation that supports our ability to recruit a diverse and representative pool of commissioners.	The item was presented to the Board on 10/2/2018. The Board directed that HR: 1) convene a committee of Department Heads that manage significant boards and commissions to develop a Commissioner Recruitment Strategy; 2) ask departments to provide information related to the diversity of their current volunteer Commissioner's and committee members; and 3) work with County Counsel and Auditor to determine what would be involved/required to actively implement reimbursement to these volunteers, with budget/cost implications. Referral modified on August 24, 2021 (as part of Board's annual evaluation of referrals) to include: A) an assessment on how commissions are being utilized; how well they are serving in their advisory function to the Board; staffing levels of various committees, and, how that may or may not contribute to their functioning; and, B) referring the referral to the Board of Supervisors - Human Resources Committee to engage in discussion and bring back recommendations to the full Board. This item was discussed with the Human Resources Committee in late January 2022. The referral has been reassigned to the County Administrative Office for response. Staff will provide a report to the Board in July 2022 October 2022.	Pending		
3	2017.20	11/19/19	Alejo	PWFP		Ishii	1/28/20	Lease agreement between the City of Salinas and the County of Monterey regarding County's parcel adjacent 855 East Laurel Drive in Salinas for the implementation of a BMX Bike Track, new Skate Park, and sidewalk on East Laurel Drive in Salinas.	An initial referral was initiated on September 15, 2017. On September 1, 2017, Supervisor Alejo held a meeting with the City of Salinas, County RMA staff, and a BMX bike park and skate park engineers/designers to review the property. County Staff conferred with City Staff relative to the City's update of their Parks Master Plan. RMA has also been coordinating with City staff regarding sidewalks on County-owned lands along East Laurel Drive adjacent to this property (between Sanborn Road and Constitution Boulevard). The referral was closed on May 7, 2019 for staff to pursue efforts for a Shelter at 855 E. Laurel. RMA is preparing to bring a master planning effort for use of County lands, specifically lands at Natividad/Laurel in Salinas. This matter is reinstated for reconsideration. Public comment on this item was received on January 14, 2020. Item was pulled from the June 16, 2020, Board meeting agenda and is on hold pending identification of funding. Staff to consult with requesting Supervisor prior to resubmitting item to the Board. PWFP staff continues to work with our state legislative consultants to identify potential grant opportunities. At the September 14, 2021 Board Meeting, the Board provided direction to PWFP staff to apply for Prop 68 grant funding. On January 20, 2022, the County submitted a \$3 million application to the Prop 68 Regional Park Program. Project implementation is pending notification of a grant award. On August 24th, the County was notified that its project applications were not selected for grant funding - the process was highly competitive and oversubscribed. Staff will continue to find new opportunities to raise fund to build the project.	Postponed		
4	2018.15	6/5/18	Phillips/Alejo	HCD		Lundquist	7/17/18	Consider zoning changes to prohibit drilling for oil & gas north of King City	Present options for initiating amendments to County zoning to prohibit new oil and gas exploration in Monterey County except in the southern Salinas Valley, generally south of King City and east of the Santa Lucia range, so that it meets all legal requirements. RMA prepared options for consideration by the Planning Commission at a workshop held on 7/11/18. Referral postponed until Measure Z litigation is concluded.	Postponed		
5	2018.16	6/26/2018	Alejo	County Counsel/Auditor-Controller		Girard/Shah	8/28/2018	Update County Travel Policy by County Counsel in coordination with the Auditor-Controller's Office.	Monterey County's travel policy managed by the Auditor-Controller has not been updated in many years and today, it does not compare with current market prices or organizational procedures and may exceed legal requirements. The current policy creates barriers for county staff to be able to effectively represent county business at conferences, trainings or in litigation. This policy also conflicts with another travel policy found in the Personnel Policies and Practices Resolution (PPPR). This referral seeks to update the policies to account for inconsistencies, business needs, efficiency, market prices, whether government rates are available or whether the discounted lodging rooms were secured by conference organizers, such as the California State Association of Counties. This lack in clarity in the existing policy is costing unnecessary staff time and an update would modernize our policy with current standards. The new policy should meet Federal and State law while supporting business efficiency. A revised policy was presented to the Board on November 6, 2018. An updated memo was submitted to the Board. A revised policy will be presented to the Board in June 2022.	Pending		
6	2018.28	12/4/2018	Phillips	HCD		Lundquist	12/11/2018	Affordable Housing in the Coastal Zone	Amend County LCP to be consistent with the Coastal Act regarding affordable housing, authorize staff to investigate processes and provide language revision recommendations to the Local Coastal Plan. A presentation was provided to the Board on January 15, 2019. HCD plans to couple this work with the 6th Housing Element to be completed by December 2023. In the interim, staff considers the integration of affordable housing policies in the coastal zones when the opportunities exist (e.g., update to the Big Sur Land Use Plan)	Pending		

Item #	Brd Rpt #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	Item	Report	Status
7	2019.08	9/10/2019	Alejo	PWFP/GLA		Ishii/Chulos	12/10/2019	State Funding for the Historic Old Monterey County Jail	A presentation of options for the disposition of the Old Jail was provided on September 10, 2019. The Board identified specific options and authorized Supervisor Alejo to pursue state funding match (\$10M) in the 2020 State Budget, which will be determined by June 2020. Meanwhile, RMA has coordinated with City staff on their Lincoln Avenue Corridor Master Plan efforts that includes an option for potential reuse of the old jail site. Due to the pandemic the Legislature did not entertain specific budget requests, such as that for the Old Jail. On Oct. 18, 2021, the County met with Assemblymember Rivas who indicated he would submit a \$15 million 2022 State Budget request for the project. Discussions on this request are ongoing with the County's State Legislative delegation. On February 11, 2022, the Board held a Legislative Workshop and identified this request as a County priority. No funding for the project was included in the FY 22-23 State Budget. Staff continues to seek opportunities to fund the project. Ongoing updates are being provided to the Legislative Committee.	Postponed
8	2019.11	10/8/2019	Adams	Health/Environmental Health/Co Counsel		Jimenez/Encarnacion/Strimling	11/19/2019	Establish an Ordinance restricting the use of single-use plastics	Due to the ongoing Shelter In Place order, the development of this ordinance remains delayed. Many of the stakeholder entities have been severely impacted by the SIP (the restaurant and hotel industry particularly) and EH recommends their participation in the development of this ordinance once SIP conditions are lifted or allow business activities to resume at a higher level of production. During the entire month of September 2021, the Recycling Resource And Recovery Services (RRRS) of the Environmental Health Bureau had a survey on posted on the program's webpage seeking input from the public. The survey was live for 30 days and RRRS received a total of 294 responses and 94 comments. 70% of respondents Strongly Agreed and 13% Strongly Disagreed.	Postponed
9	2020.06	1/28/2020	Askew	PWFP		Ishii	3/10/2020	Install speed limit signs on West Camp/Watkins Gate Roads	Staff presented to the Board on March 9, 2021, and the Board approved an update to Title 12 to apply the California Vehicle Code to private East Garrison roads. Staff met with the East Garrison CSD Advisory Committee's Traffic Safety Subcommittee on April 9, 2021 to discuss concerns and options along Watkins Gate Road. The EGCSO considered the signs and indicated its support for staff to move forward them. On January 25, 2022 after review and consideration of traffic calming options, the East Garrison CSD Advisory Committee indicated its support for staff to proceed with installation of radar speed feedback signs on West Camp and Watkins Gates Roads. Staff secured a contractor to perform this work. Equipment and materials have been ordered and contractor is awaiting delivery. After a long lead time, equipment and material were received and the signs installed on July 6, 2022. Referral deemed complete by referring Supervisor on August 25, 2022.	"Complete"
10	2020.09	2/25/2020	Lopez	CAO		Chulos	3/24/2020	Murals at the Government Center	Partner with the Arts Council of Monterey County to create murals on the walls of the stairways at the County Government Center located at 168 West Alisal. An informational report was provided to Capital Improvement on May 9, 2022. Project activities are expected to commence on the eastside stairwell in May 2022 with an anticipated completion date of June 30, 2022. Project activities commenced on the eastside stairwell in mid-July 2022 and reached completion in early August 2022. An unveiling event is set to occur in mid-September 2022.	Pending
11	2020.12	3/3/2020	Phillips & Adams	CAO/PWFP		Vega/Ishii	4/7/2020	Consider funding options to increase the Pavement Condition Index of County roads to at least a "Fair" standard over the next ten years.	Staff has been performing research on funding options with the assistance of a financial consultant. A report was presented to the Capital Improvement Committee (CIC) meeting on September 13, 2021. Staff provided a status update to the Board on February 8, 2022. Staff is proceeding with Board direction, and coordinating with financial advisors and the Budget team to finalize details of the proposed bond approach. The Debt Advisory Committee is expected to consider the program in late September or early October with review by the Capital Improvement Committee and BOS in late October.	Pending
12	2020.22	7/7/2020	Phillips	CAO		Bokanovich	7/28/2020	Referral Process Amendment	This referral requests that the process be amended to have Board approval for a referral as part of an agenda item showing the purpose of the referral, costs, time, challenges, and details of the project. Exceptions may be made for urgent matters. The Board approved an Amended Board Referral Process on April 27, 2021. The Board will conduct a review of the amended referral process, along with the evaluation of outstanding referrals, on an annual basis. The referral has been reassigned to the County Administrative Office for response. Staff will provide a report to the Board in July 2022 October 2022.	Pending
13	2020.27	12/8/2020	Lopez-Alejo	COB		Ralph		Address the need for translation services	This referral seeks to support access to live translation services and translate recorded minutes of Board of Supervisor meetings. Staff provided a report to the Board on December 14, 2021. Staff will provide a report to the Board in July 2022. The referral is close to completion. Staff will provide an update to the referring Supervisors.	Pending
14	2021.05	3/2/2021	Alejo	PWFP		Ishii	6/1/2021	Monterey County COVID-19 Victims Memorial	This referral seeks to create a permanent memorial with the names of all COVID-19 victims of Monterey County on the Monterey County Government Campus at 168 West Alisal Street. A presentation was provided to the Board on March 22, 2022. Staff was directed to seek potential match from partners and return to the Board in 45 days for further direction. Staff has been seeking potential partners and will be reporting back. The Board approved a revised concept at its June 22, 2022 meeting. Staff is coordinating with the Budget Office to establish fund to receive donations, and staff is seeking potential donors. On September 13, 2022 the Board of Supervisors approved staff's request to enter into a capital campaign with Monterey County Community Foundation to raise funds to complete the project.	Pending
16	2017.24	10/18/2017	Alejo	Probation		Keating		Proposal to consolidate the current "Youth Center" on 970 Circle Drive in east Salinas with the new Juvenile Hall on 1420 Natividad Road and repurpose the property on 970 Circle Drive.	A memorandum was provided to the Board of Supervisors in late August 2020. Continuing discussions are occurring. Staff provided a memorandum to the Board on May 6, 2021. Referral modified on August 24, 2021 (as part of Board's annual evaluation of referrals) to include a report from the CAO on options for retaining an independent consultant to look into this matter. Staff provided a report to the Board on April 26, 2022. The Board provided direction for the CAO's Office to pursue a contract with a consulting firm to conduct an infrastructure needs assessment for juvenile facilities. On June 7, 2022, the Board took action to combine Board Referral No. 2017.24 with 2022.16.	Combined with 2022.16
18	2021.09	5/25/2021	Phillips/Askew	CAO		Bokanovich		Review of Board Committee Responsibilities	This referral seeks to clarify the purpose and responsibilities of each Board of Supervisors committees to improve staff workflow and Board decision making ability. A preliminary analysis was approved by the Board on June 15, 2021. Staff will be submitting a response to this referral for Board consideration in May 2022. The referral has been reassigned to the County Administrative Office for response. Staff provided a report to the Board in July 2022 October 2022.	Pending

Item #	Brd Rpt #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	Item	Report	Status
21	2021.14	8/24/2021	Alejo	CAO		Chualos/Paulsworth		EV Charging Station Infrastructure, Mapping and Investment	This referral requests that the Monterey County Sustainability Manager assess and map existing EV charging stations (Level 2 and DC fast chargers) in Monterey County and make it accessible to the public on a new county website, and to assess the need for charging station infrastructure and investment in unserved/underserved areas and disadvantaged communities in Monterey County. This referral further requests that Monterey County partner with the Monterey County Air Resources District, Central Coast Community Energy and other potential partners to pursue grant funding and expand EV charging infrastructure in unserved/underserved areas and disadvantaged communities in our county. A preliminary analysis was provided to the Board on September 21, 2021, at which time, staff was directed to return to the Board with a further analysis. Staff provided a report and presentation for Board consideration on October 26, 2021. A status update will be provided to the Board in early 2022.	Pending
24	2021.18	9/28/2021	Adams	WRA		Bueche		Board Workshop to Review Regional Water Issues and Potential Solutions	This referral seeks to initiate a comprehensive discussion on regional scale water issues and potential solutions in Monterey County. This referral is for the Board of Supervisors of the MCWRA to hold a special joint meeting with the MCWRA Board of Directors, the SVBGSA Board of Directors, and the Marina Coast Water District GSA Board for the water agencies' leadership to provide a comprehensive overview of regional projects under consideration by the MCWRA, SVBGSA and MCWD GSA. Elected officials, local agencies, water purveyors, industry representatives, landowners and other stakeholders that may have some oversight or authority, or potential interest in participating in regional solutions should be invited. A preliminary analysis was provided to the Board on November 2, 2021. A workshop was held for the Board on March 15, 2022 at 1:30pm. The 2nd Board Workshop will be held on September 20, 2022.	Pending
25	2021.19	9/28/2021	Lopez	Ag. Comm.		Gonzales		Farmworker Resource Center	In order to better serve the farm working population of Southern Monterey County, this referral seeks to direct staff to research and come back to our Board of Supervisors with options and feasibility for locating a Farmworker Resource Center in the community of Greenfield CA. The leverage opportunity of matching dollars in the recently signed AB 941, at a 3:1 ratio, provides a great incentive for our County to develop a resource center in a community that lacks direct access to County services, while continuing to face access barriers, such as transportation. The analysis of feasibility should include a recommendation of what services should be provided at this location, as well as the potential to shift existing staff, already focused on this work, into locations near the geographic center of Monterey County. A preliminary analysis was provided to the Board on October 26, 2021. A formal referral response was provided to the Board on February 1, 2022. Staff anticipates providing a status update in late April or early May 2022. Staff will provide a status update to the Board on July 12, 2022. Staff will provide a status update to the Board on October 18, 2022 October 25, 2022.	Pending
26	2021.20	10/12/2021	Phillips	DA	DSS	Pacioni/Medina		Family Justice Center	This referral seeks to direct staff to research and come back to the Board of Supervisors with potential funding and locations suitable for a Family Justice Center. This referral would also direct staff to coordinate and work with the City of Salinas and agencies who would be part of the Family Justice Center. A preliminary response was provided to the Board on November 16, 2021. Staff will provide a status update to the Board on March 2022 June 2022 August 30, 2022.	Pending
29	2021.25	11/16/2021	Askew	HCD		Ishii Lundquist		East Garrison Street Renaming	This referral seeks to identify the process and funding for the renaming of certain streets in East Garrison and revise the naming approval process. A preliminary response was provided to the Board on January 11, 2022. Staff will report back to the Board on May 3, 2022. Staff presented to the Board at the May 3, 2022 Board Meeting, and received direction from the Board. HCD has been directed to engage with the public and determine interest in changing the street names within East Garrison. HCD attended the East Garrison CSD (EGCSD) meeting on May 11, 2022, to present the matter. Based on public comment, they will be presenting a follow-up item to EGCSD at one of their next meetings. Adopted FY22-23 Budget includes \$40,000 for street renaming. HCD to prepare draft program for Board consideration.	Pending
30	2021.27	12/7/2021	Askew	HRD		Ramirez-Bough		Class and Comp Study Process	This referral directs the Human Resource Director to prepare a report detailing the current process to submit a Class and Comp study request and a current list of outstanding requests, and to work with the Human Resources Committee to develop an equitable transparent process for prioritization of ongoing class and comp studies to ensure that county workers are fairly compensated. A preliminary response was provided to the Board on January 11, 2022. Staff will report back to the Board on May 17, 2022. Discussions on this request are ongoing with the bargaining groups. A status update will be provided to the Board in December 2022.	Pending
31	2021.28	12/7/2021	Alejo/Lopez	WRA		Bueche		Water Storage Infrastructure and Maintenance State Budget Request	This referral requests that Monterey County Water Resources Agency partner with our state legislative delegation to make a \$300 million budget request in the 2022 legislative session for the water storage infrastructure & maintenance projects at Lakes San Antonio and Nacimiento. When the referral was introduced it was amended to include an additional \$12 million State Budget request for the San Lucas Clean Drinking Water Project. A preliminary response was provided to the Board on January 11, 2022. These projects have been designated as priority projects of the Board for the 2022 Legislative Program. The County has made a \$312 million State Budget request for these projects. Discussions on this request are ongoing with the County's State Legislative delegation. On February 11, 2022, the Board held a Legislative Workshop and identified these State Budget requests as County priorities. Ongoing updates will be provided to the Legislative Committee.	Pending
32	2021.29	12/7/2021	Adams	PWFP		Ishii		Increased Fines for Big Sur Roadside Camping Prohibition	This referral seeks to increase the administrative citation and fine amounts for citations issued under Monterey County Code Section 14.18.020.A. This is a follow-up to Board Referral No. 2019.16 (Big Sur Roadside Camping Prohibition Enforcement). A preliminary response was provided to the Board on January 11, 2022. Staff will report back to the Board on April 30, 2022. Staff is working with the Big Sur Byway Organization on planning and next steps. The Ordinance increasing the existing fine amount to \$1,000 was adopted by the BOS at its July 26, 2022 meeting. New signage has been installed at the north and south ends of the camping prohibition zone on existing signposts. Additional signs to be installed with Big Sur Byway Organization.	Pending
33	2021.30	12/14/2021	Askew	Health		Jimenez		School Vaccination Coordination	This referral directs the Monterey County Health Department to partner with the K12 school system to increase the rate of vaccinations amongst pediatric residents aged 5 to 11 years old in disproportionately impacted communities. A preliminary response was provided to the Board on January 11, 2022. Staff will report back to the Board in April 2022. Staff will report back to the Board in June 2022. Staff will bring forth an updated response at the June 21st BOS meeting. Staff has been directed to return to BOS with an update in the Fall. Staff will bring forth an updated response at the October 11th BOS meeting.	Pending

Item #	Brd Rpt #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	Item	Report	Status
34	2021.31	12/14/2021	Alejo	HCD/CoCo		Lundquist/Girard		Housing Authority of Monterey County Reorganization and New Governance Structure	This referral seeks to reorganize and consolidate the Housing Authority of Monterey County and its subsidiary, the Housing Development Corporation, under one Executive Director, and have the Monterey County Board of Supervisors serve at its new governing board to oversee its operations and implement needed reforms. A preliminary response was provided to the Board on January 11, 2022. Staff will provide a status update to the Board on July 2022 September 13, 2022.	Pending
35	2022.01	1/11/2022	Alejo	PWFP		Ishii		Velocity International Event & Sponsorship at WeatherTech Laguna Seca Raceway	This referral seeks consideration of a significant proposal by Velocity International to bring an August Monterey Motorsports Reunion Event to WeatherTech Laguna Seca Raceway. This referral would direct staff to quickly enter into discussions and negotiations with Velocity International, and to expeditiously bring the proposal back for full Board of Supervisors' consideration. The Board of Supervisors has previously requested that such potential sponsorships be brought to Laguna Seca Raceway, and this proposal could also potentially offset the significant \$10 million costs to repave the track and construct a new bridge as discussed during the board meeting last Tuesday, December 8, 2021. A preliminary response was provided to the Board on February 1, 2022. Staff met with Velocity International representatives and will report back to the board in September 2022.	Pending
36	2022.02	1/11/2022	Askew	CAO		Chialos/Bokanovich		Sheriff Oversight Board Formation	This referral seeks to explore formation of a Sheriff Oversight Board. Assembly Bill 1185 authorized counties to establish a sheriff oversight board to assist the board of supervisors to fulfill its duties related supervising the official conduct of all county officers, including the sheriff. An oversight board would consist of civilian residents appointed by the board of supervisors. Formation of the oversight board can be accomplished by action of the board of supervisors or through a vote of county residents. This referral requests the Board of Supervisor form such an oversight board and that staff return with a report that includes bylaws, formation resolution, and an outline of administrative capacity needed to support the oversight board. A preliminary response was provided to the Board on March 22, 2022; at which time, the Board took action to defer the item until after the new Sheriff is elected and the Board has had an opportunity to establish a relationship.	Postponed
38	2022.04	2/1/2022	Phillips/Lopez	PWFP		Ishii		Revisit Rossi Road Extension Plan	This referral seeks to revisit the Rossi Road extension plan and explore solutions to alleviate traffic congestion and improve traffic circulation in the Boronda area as a result of the population and business growth and the relocation of the SVSWA transfer station and Republic Services' yard. A preliminary response was provided to the Board on March 8, 2022. A Town Hall was conducted on July 27, 2022. A working group has been started, and next steps and roles are being established. CEQA and funding are also being researched and discussed.	Pending
39	2022.05	2/8/2022	Phillips	PWFP		Ishii		Parking Prohibition Enforcement	The purpose of this referral is to perform a traffic and engineering study so that we can put in place requisite signage to clarify and strengthen the ability for Monterey County Sheriff's Office peace officers to enforce Monterey County Code Section 12.28.010. The intent of the referral is to not permit roadside parking or stopping anytime on Madison Lane. A preliminary response was provided to the Board on March 8, 2022. Staff will report back to the Board by June 30, 2022. On July 26, 2022 the BOS adopted a resolution for daytime parking prohibition. Installation of signage has been completed. Referral deemed complete by referring Supervisor on September 13, 2022.	"Complete"
40	2022.06	2/8/2022	Askew	Health		Jimenez/Hanni		VIDA Project Extension	This referral seeks to increase funding allocated to the VIDA Project to maintain operations through the end of the 2022. The referral directs staff to return with a report outlining costs of continuing the VIDA Project at current operating levels through December 31st. A preliminary response was provided to the Board on March 8, 2022 and updated response was provided on June 21, 2022. Staff will provide an update at the Health, Housing, and Human Services Committee on September 12, 2022 and Board of Supervisors on September 27, 2022.	Pending
41	2022.07	3/1/2022	Lopez	Sheriff Ag Comm		Bernut Gonzales		Monterey County Agricultural and Livestock Pass	This referral requests that staff determine feasibility of an agricultural and livestock pass for the County of Monterey. In the last few years, California has had some of the largest and most severe wildfires in history of the state. The purpose of creating a county-based "Ag Pass" program is to provide a uniform way to identify vetted commercial farm and ranch owner-operators and their employees to firefighting personnel, California Highway Patrol officers, Sheriff's deputies and other law enforcement officers, and other emergency personnel. Possession of an Ag Pass during a wildfire or a similar disaster potentially allows the agriculturalist limited emergency access to areas that may otherwise be restricted to the public, in order to 1) protect or care for agricultural assets (such as irrigating crops or feeding, watering, and transporting livestock) and/or 2) provide support information to emergency personnel (such as identifying access roads and available water sources). This item was reassigned to the Agricultural Commissioners Office on April 5, 2022. A preliminary analysis response will be provided to the Board on May 3, 2022. A preliminary response was provided to the Board on May 3, 2022. Staff will present to the Board on October 25, 2022.	Pending
43	2022.09	3/1/2022	Lopez	ITD	CoCo	Chatham/Girard		Salinas Valley Five Cities Joint Powers Authority	This referral request that staff explore the potential of creating a Salinas Valley Five Cities Joint Powers Authority to develop the broadband, and/or high-speed internet needed by all the communities and areas represented by the JPA. A preliminary response was provided to the Board on March 22, 2022. A status update will be provided to the Board in June 2022. Referral deemed complete by referring Supervisor on September 8, 2022.	"Complete"
45	2022.11	3/1/2022	Alejo	Health		Jimenez/Eckert		Mental Health Services Act (MHSA) Reserve Funds Expenditure Plan & Oversight	This referral requests that the Monterey County Behavioral Health Department provide a comprehensive presentation on how Mental Health Services Act funding is being used in our county, what other potential eligible services could be provided under the act, and to devise an updated expenditure plan to utilize the record reserve funds of \$55,380,337 towards providing critical needed services to eligible residents. The referral further requests that the Board of Supervisors receive an annual report on the expenditures and effectiveness of all its programs. A preliminary response was provided to the Board on March 22, 2022. The Board directed that the matter be referred to the Budget Committee for further consideration. An initial comprehensive report was provided to the Budget Committee on April 25, 2022. The Budget Committee directed that the report be expanded to include outcomes and effectiveness, and be referred to the Board of Supervisors for further consideration. Staff provided an updated response to the Board of Supervisors on June 21, 2022 and were directed to present further updates to the Budget Committee. Staff provided an update at the Budget Committee on July 27, 2022 and were directed to return to Budget Committee in January 2023 with an update on our future fund balance assumptions and innovation projects.	Pending

Item #	Brd Ref #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	Item	Report	Status
46	2022.12	3/1/2022	Askew	CAO		Chiuolos/D'Adamo		Strategic Grants Program Capacity	This referral seeks to increase the capacity of the County's Strategic Grants Program, ensuring expertise needed to respond and successfully secure grants from State and Federal sources is immediately available. The referral requests that staff return to the Board with a report: 1) outlining the internal and contract resources needed to meaningfully support County departments in analyzing and responding to coming grant opportunities without adversely impacting the County's Legislative Program efforts; 2) options for expanding the Program to provide a comprehensive view on the grant efforts of all County departments; 3) options for building program capacity, including an estimated cost of each option; and, 4) recommended preferred options and corresponding mid-year budget request. A preliminary response was provided to the Board on April 5, 2022. The Board included \$50,000 in the FY22-23 budget for a pilot program to provide grant writing and technical assistance to departments applying for infrastructure funding opportunities. Continued update will be provided to the Legislative Committee. Referral deemed complete by referring Supervisor on September 13, 2022.	Complete
47	2022.13	3/22/2022	Adams/Askew	NMC		Dr. Harris		Shipnuck	This referral requests Natividad Medical Center to name a portion of Natividad Medical Center after Barbara Shipnuck in recognition of her work to save the hospital. A preliminary analysis was provided to the Board on April 26, 2022. Staff will go to the Capital Improvement Committee (CIC) on June 13, 2022, and to the Board on June 14, 2022. Staff will go to the Board on July 19, 2022. Referral deemed complete by referring Supervisor on July 23, 2022.	Complete
48	2022.14	4/19/2022	Lopez	PWFP		Ishii		Harkins Road	This referral requests that staff investigate the possibility of changing Harkins Road into a one-way street. A preliminary analysis will be provided to the Board on May 17, 2022. Staff presented the Preliminary Analysis Report at the May 17, 2022 Board Meeting. Staff will come back to the Board prior to the end of October 2022. As directed, staff provided a preliminary analysis to the Board at is May 17, 2022 meeting. The Board directed staff to return with a more comprehensive analysis of the referral and anticipated effort for completion. That is planned for October 2022.	Pending
49	2022.15	4/19/2022	Alejo	CAO		Chiuolos/Wilson		Collaboration Regarding Salinas Gabilan Creek Encampments & Environmental Concerns	This referral requests that staff collaborate with the City of Salinas, the Salinas Regional Sports Authority, and the California Department of Fish and Wildlife regarding homeless encampments along Gabilan Creek near the Salinas Regional Soccer Complex causing environmental and nuisance concerns. A preliminary assessment was provided to the Board on May 10, 2022. Staff will collaborate with City Staff and return to the Board to provide a status in 60 to 90 days.	Pending
50	2022.16	5/10/2022	Alejo/Phillips	Probation/CAO/PWFP		Kenting-McGee/Ishii		Completion of the Monterey County Juvenile Hall	This referral requests for the Monterey County Probation and other county staff to pursue state grant funding to complete the unfinished phase of the Juvenile Hall. A preliminary response will be provided to the Board on June 7, 2022. Staff will go to the Board on June 14, 2022. On June 7, 2022, the Board took action to combine Board Referral No. 2022.16 with 2017.24. This item was reassigned to PWFP on September 8, 2022. Public Works and Facilities is managing the proposal phase with a contracted vendor. Probation has also received \$2.1 million from the State for the improvement of juvenile facilities.	Pending
51	2022.17	8/23/2022	Lopez	Elections		Martinez		Elections Fee Schedule – Recounts	This referral requests that staff bring forward recommendations to possibly include creating a fee schedule for candidates to request and plan for recounts when needed. A preliminary analysis will be presented to the Board on September 27, 2022.	Pending
52	2022.18	8/23/2022	Alejo-Askew	Social Services		Medina		Monitoring of FCS Programs and Services	This referral requests HHHSC Committee roles and responsibilities be amended to explicitly include responsibility for monitoring the programs and services of Family and Children's Services. A preliminary analysis will be presented to the Board on September 20, 2022.	Pending
53	2022.19	9/20/2022	Lopez	CAO		Vaughn		Joining Chamber of Commerce in Our Community	This referral requests that staff determine the possibility of the County of Monterey joining the Salinas Valley, Monterey Peninsula, and King City Chambers of Commerce.	Pending
54	2022.20	9/27/2022	Lopez	CAO		Iwamoto		Review of Local Requirement for Commercial Cannabis Operators	This referral requests that staff consider a review of the department specific local requirements for commercial cannabis operators to achieve local authorization for the transition from a Department of Cannabis Control Provisional License to Annual Licensure.	"NEW - Pending Approval on 9/27/22"
55	2022.21	9/27/2022	Alejo	COB/CAO		Ralph/Vega		Clerk of the Board of Supervisors Budget Augmentation for Resolutions	This referral requests staff to augment the budget for the Clerk of the Board of Supervisors to cover all expenses for framed Board Resolutions, and to enhance our certificates for Board Resolutions.	"NEW - Pending Approval on 9/27/22"
56	2022.22	9/27/2022	Alejo	PWFP		Lerabie		East Salinas District 1 Office	This referral requests that staff search and open a District Office for District 1 in East Salinas 93905 to provide greater office access to constituents in this area of Salinas with the greatest need.	"NEW - Pending Approval on 9/27/22"
Completed by Executive Assistant on September 21, 2022										

**Monterey County Board of Supervisors
Referral Submittal Form**

Referral No. 2022.20
Assignment Date: 09/27/22
(Completed by CAO's Office)

SUBMITTAL - Completed by referring Board office and returned to CAO no later than noon on Thursday prior to Board meeting:

Date: 9/2/22	Submitted By: Supervisor Lopez	District #: 3
Referral Title: Review of Local Requirement for Commercial Cannabis Operators		
Referral Purpose: To consider a review of the department specific local requirements for commercial cannabis operators to achieve local authorization for the transition from a Department of Cannabis Control Provisional License to Annual Licensure.		
<p>Brief Referral Description (attach additional sheet as required):</p> <p>The Department of Cannabis Control is sunsetting the issuance and renewal of provisional licensing through 2025, which is dependent on the type and scale of the operation. To obtain an annual license, operators must satisfy all local requirements.</p> <p>Due to the ongoing market downturn, rising material and labor costs, a shortage of local professional service providers, and continued supply chain disruption, operators are facing difficulty in completing their required planning and building permits.</p> <p>This is a formal request to review department specific local requirements and identify where it may be possible to provide local authorization for annual licensure so that operations may continue in the interim period.</p> <p>The primary outstanding requirements include meeting all land use permit conditions (Housing and Community Development, Planning), septic and water systems (Environmental Health Bureau), bringing existing structures into compliance including but not limited to various required building permits (Housing and Community Development, Building), and being current on commercial cannabis business tax and fees including local taxes and fees as well.</p> <p>43 of the 92 cannabis land use applications have been approved, however only 14 have been cleared 14 of the 104 cannabis business permit applications have been issued, where the remaining 78 are operational and 12 are non-operational.</p>		
Classification - Implication		Mode of Response
<input type="checkbox"/> Ministerial / Minor <input type="checkbox"/> Land Use Policy <input type="checkbox"/> Social Policy <input type="checkbox"/> Budget Policy <input checked="" type="checkbox"/> Other: <u>Cannabis Program</u>		<input type="checkbox"/> Memo <input checked="" type="checkbox"/> Board Report <input checked="" type="checkbox"/> Presentation
		Requested Response Timeline
		<input type="checkbox"/> 2 weeks <input checked="" type="checkbox"/> 1 month <input type="checkbox"/> 6 weeks <input type="checkbox"/> Status reports until completed <input type="checkbox"/> Other: _____ <input type="checkbox"/> Specific Date: _____

**ASSIGNMENT – Provided by CAO at Board Meeting. Copied to Board Offices and Department Head(s)
Completed by CAO's Office:**

Department(s): <u>County Administrative Office</u>	Referral Lead: <u>Joann Iwamoto</u>	Board Date: <u>09/27/2022</u>
---	--	----------------------------------

REASSIGNMENT – Provided by CAO. Copied to Board Offices and Department Head(s). Completed by CAO's Office:

Department(s):	Referral Lead:	Date:
----------------	----------------	-------

ANALYSIS - Completed by Department and copied to Board Offices and CAO:

Department analysis of resources required/impact on existing department priorities to complete referral:	
Analysis Completed By: _____	Department's Recommended Response Timeline
Date: _____	<input type="checkbox"/> By requested date <input type="checkbox"/> 2 weeks <input type="checkbox"/> 1 month <input type="checkbox"/> 6 weeks <input type="checkbox"/> 6 months <input type="checkbox"/> 1 year <input type="checkbox"/> Other/Specific Date: _____

REFERRAL RESPONSE/COMPLETION - Provided by Department to Board Offices and CAO:		
Referral Response Date:	Board Item No.:	Referrals List Deletion:

Note: Please cc Claudia Escalante, Karina Bokanovich, Rocio Quezada and Maegan Ruiz-Ignacio on all CAO correspondence relating to referrals.

Monterey County Board of Supervisors Referral Submittal Form

Referral No. 2022.21
Assignment Date: 09/27/22
(Completed by CAO's Office)

SUBMITTAL - Completed by referring Board office and returned to CAO no later than noon on Thursday prior to Board meeting:

Date: 9/19/2022	Submitted By: SUPERVISOR LUIS ALEJO	District #: 1
Referral Title: Clerk of the Board of Supervisors Budget Augmentation for Resolutions		
Referral Purpose: To augment the budget for the Clerk of the Board of Supervisors to cover all expenses for framed Board Resolutions, and to enhance our certificates for Board Resolutions.		
<p>Brief Referral Description (attach additional sheet as required): This referral requests that the budget of the Clerk of the Board of Supervisors be augmented by approximately \$4000 to cover all costs to print and frame resolutions by the Board of Supervisors. Framed resolutions are primarily requested by the Board Chair, members of the Board of Supervisors, or Department Directors, and cost approximately between \$3000-4000 per year. Currently costs are taken from the Clerk's limited supplies budget, which leaves the office with limited resources for other department needs throughout the year.</p> <p>Secondly, this referral request that the certificate for the Board Resolutions be enhanced with a colorful design modeled after other counties, and that more cost effective options be researched for board resolutions framing and matting.</p>		
Classification - Implication		Mode of Response
<input type="checkbox"/> Ministerial / Minor <input type="checkbox"/> Land Use Policy <input type="checkbox"/> Social Policy <input checked="" type="checkbox"/> Budget Policy <input checked="" type="checkbox"/> Other: <u>Clerk of the Board</u>		<input type="checkbox"/> Memo <input checked="" type="checkbox"/> Board Report <input checked="" type="checkbox"/> Presentation
		Requested Response Timeline
		<input type="checkbox"/> 2 weeks <input checked="" type="checkbox"/> 1 month <input type="checkbox"/> 6 weeks <input type="checkbox"/> Status reports until completed <input type="checkbox"/> Other: _____ <input type="checkbox"/> Specific Date: _____

ASSIGNMENT – Provided by CAO at Board Meeting. Copied to Board Offices and Department Head(s) Completed by CAO's Office:

Department(s): Clerk of the Board/County Administrative Office	Referral Lead: Valerie Ralph/Ezequiel Vega	Board Date: 09/27/22
---	---	-------------------------

REASSIGNMENT – Provided by CAO. Copied to Board Offices and Department Head(s). Completed by CAO's Office:

Department(s):	Referral Lead:	Date:
----------------	----------------	-------

ANALYSIS - Completed by Department and copied to Board Offices and CAO:

Department analysis of resources required/impact on existing department priorities to complete referral:	
Analysis Completed By: _____ Date: _____	Department's Recommended Response Timeline <input type="checkbox"/> By requested date <input type="checkbox"/> 2 weeks <input type="checkbox"/> 1 month <input type="checkbox"/> 6 weeks <input type="checkbox"/> 6 months <input type="checkbox"/> 1 year <input type="checkbox"/> Other/Specific Date: _____

REFERRAL RESPONSE/COMPLETION - Provided by Department to Board Offices and CAO:

Referral Response Date:	Board Item No.:	Referrals List Deletion:
-------------------------	-----------------	--------------------------

Note: Please cc Karina Bokanovich, Rocio Quezada and Maegan Ruiz-Ignacio on all CAO correspondence relating to referrals.

**Monterey County Board of Supervisors
Referral Submittal Form**

Referral No. 2022.22
Assignment Date: 09/27/22
(Completed by CAO's Office)

SUBMITTAL - Completed by referring Board office and returned to CAO no later than noon on Thursday prior to Board meeting:

Date: 9/19/2022	Submitted By: SUPERVISOR LUIS ALEJO	District #: 1
Referral Title: East Salinas District 1 Office		
Referral Purpose: To search and open a District Office for District 1 in East Salinas 93905 to provide greater office access to constituents in this area of Salinas with the greatest need.		
Brief Referral Description (attach additional sheet as required): This referral requests that county staff begin search for options to open a District Office for District 1 in East Salinas. All other county supervisor offices now have opened District Offices in their respective districts, while also having an office at the County Government Center at 168 West Alisal Street. The only office that does not have a district office is District 1 despite having the greatest growth of all 5 districts by 5.6% (91,780 residents total) in the revised district maps approved last year in the redistricting process. East Salinas (93905 zip code) has a population of 61,087, with 6,564 people per square mile, and the greatest need for government services. This referral is also in line with City of Salinas' Alisal Vibrancy Plan to provide more resources and investment in East Salinas, and will provide a permanent presence in that portion of District 1 to be more accessible to our constituents.		
Classification - Implication		Mode of Response
<input type="checkbox"/> Ministerial / Minor <input type="checkbox"/> Land Use Policy <input type="checkbox"/> Social Policy <input checked="" type="checkbox"/> Budget Policy <input checked="" type="checkbox"/> Other: <u>Board of Supervisors</u>		<input type="checkbox"/> Memo <input checked="" type="checkbox"/> Board Report <input checked="" type="checkbox"/> Presentation
		Requested Response Timeline
		<input type="checkbox"/> 2 weeks <input type="checkbox"/> 1 month <input checked="" type="checkbox"/> 6 weeks <input type="checkbox"/> Status reports until completed <input type="checkbox"/> Other: _____ <input type="checkbox"/> Specific Date: _____

**ASSIGNMENT – Provided by CAO at Board Meeting. Copied to Board Offices and Department Head(s)
Completed by CAO's Office:**

Department(s):	Referral Lead:	Board Date:
----------------	----------------	-------------

REASSIGNMENT – Provided by CAO. Copied to Board Offices and Department Head(s). Completed by CAO's Office:

Department(s): Public Works, Facilities, and Parks	Referral Lead: Lindsay Lerable	Date: 09/27/22
---	-----------------------------------	-------------------

ANALYSIS - Completed by Department and copied to Board Offices and CAO:

Department analysis of resources required/impact on existing department priorities to complete referral:	
Analysis Completed By: _____	Department's Recommended Response Timeline
Date: _____	<input type="checkbox"/> By requested date <input type="checkbox"/> 2 weeks <input type="checkbox"/> 1 month <input type="checkbox"/> 6 weeks <input type="checkbox"/> 6 months <input type="checkbox"/> 1 year <input type="checkbox"/> Other/Specific Date: _____

REFERRAL RESPONSE/COMPLETION - Provided by Department to Board Offices and CAO:

Referral Response Date:	Board Item No.:	Referrals List Deletion:
-------------------------	-----------------	--------------------------

--	--	--

Note: Please cc Karina Bokanovich, Rocio Quezada and Maegan Ruiz-Ignacio on all CAO correspondence relating to referrals.



Monterey County

Item No.23

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: PAR 22-027

September 27, 2022

Introduced: 9/12/2022

Current Status: Scheduled AM

Version: 1

Matter Type: Preliminary Analysis
Report

Receive a preliminary analysis report in response to Board Referral No. 2022.17 seeking the Elections staff bring forward recommendations to possibly create a fee schedule for candidates to request and plan for recounts when needed.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Receive a preliminary analysis report in response to Board Referral No. 2022.17 and;
 - 1) Direct staff to proceed with completion of referral based on the description in this report; or,
 - 2) Direct staff to:
 - i. Proceed with completion of referral based on modifications by the Board of Supervisors; or,
 - ii. Return to the Board with a more comprehensive analysis of referral and anticipated effort for completion; or,
 - iii. Rescind referral.
- b. Provide further direction, as appropriate.

PRELIMINARY ANALYSIS:

Referral Summary & Background: Referral 2022.17 was submitted by Supervisor Lopez and assigned by the CAO on 8.23.2022. The referral seeks to have the Elections Department make recommendations that would enhance transparency and facilitate the processes to request a recount.

Proposed Project Description: Currently, the Elections Department references California Elections Code and the California Code of Regulations in estimating costs on a case-by-case basis and provides initial cost estimates based on information provided from the requester or the requester's appointed representative. California Regulations provide that "all actual costs of the recount that would not have been incurred but for the requestor's particular recount request (which) shall be directly recoverable from the requestor and may include, but are not limited to, additional supervision hours, security guard hours, the elections official's staff hours, space rental, transportation of ballots and materials and administrative costs." (CCR Title 2, Div.7, Chpt. 8, Art 1, 20815).

Some counties have recount guidelines and provide an example of a cost breakdown as opposed to a fee schedule. This is due in part to the fact that locking in a methodology can have unintended consequences. For example, some counties use guidelines that are based on an obsolete voting system (2013) and tabulation procedures that are no longer in place in the State of California. Another

challenge is that requestors often seek information not anticipated in the adopted fee schedule and which can lead to actual costs not being recovered, contrary to California Regulations as noted above. We are not aware of any county fee schedule that is so comprehensive to include “all actual costs of the recount...” (CCR Title 2, Div.7, Chpt. 8, Art 1, 20815).

In response to the referral, the Department is already in the process of drafting recount guidelines with examples of cost breakdowns, similar to the counties referenced, and will include other potential costs that a requester would incur in preparing for the recount, in an attempt to meet California Regulations to recover all costs. This approach is also the most comprehensive in terms of facilitating the recount request and planning process.

Estimated Project Cost: The cost to prepare guidelines is minimal as this is already in process. The cost to prepare a fee schedule would require additional staff time and analysis to prepare a schedule that is comprehensive and accurate of the work conducted in the recount.

Staffing Level Estimate: Staff time for the completion of guidelines that will be made publicly available upon completion will involve the Registrar of Voters, Assistant Registrar of Voters and certified translator. Staff time to complete a comprehensive fee schedule will include the Registrar of Voter, Assistant Registrar of Voters, Business Technology Analyst, and Management Analyst II.

Departmental Challenges: The Department is currently working to analyze actual tasks and charges related to recounts conducted in comparable counties. This process is being undertaken during a major election in coordination with multiple counties and limited staffing resources. Anticipating all possible details of recount request will require flexibility in the fee schedule.

Proposed Response Date: Depending on Board direction, staff can return to the Board with the final recount guidelines by October 18, 2022. Should the Board require a comprehensive fee schedule the Department would request a return to the Board no sooner than February 2023.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This item is in line with the Board’s vision for providing efficient service and cost neutral administration.

Check the related Board of Supervisors Strategic Initiatives:

☒ Administration: Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Prepared by: Jessica Cedillo, Assistant Registrar of Voters, x1499

Approved by: Gina Martinez, Registrar of Voters, x1499

Attachments:

Preliminary Analysis Report

Board Referral No. 2022.17

PowerPoint - Board Referral No. 2022.17: Election Recounts



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: PAR 22-027

September 20, 2022

Introduced: 9/12/2022

Current Status: Agenda Ready

Version: 1

Matter Type: Preliminary Analysis
Report

Receive a preliminary analysis report in response to Board Referral No. 2022.17 seeking the Elections staff bring forward recommendations to possibly create a fee schedule for candidates to request and plan for recounts when needed.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Receive a preliminary analysis report in response to Board Referral No. 2022.17 and;
 - 1) Direct staff to proceed with completion of referral based on the description in this report; or,
 - 2) Direct staff to:
 - i. Proceed with completion of referral based on modifications by the Board of Supervisors; or,
 - ii. Return to the Board with a more comprehensive analysis of referral and anticipated effort for completion; or,
 - iii. Rescind referral.
- b. Provide further direction, as appropriate.

PRELIMINARY ANALYSIS:

Referral Summary & Background: Referral 2022.17 was submitted by Supervisor Lopez and assigned by the CAO on 8.23.2022. The referral seeks to have the Elections Department make recommendations that would enhance transparency and facilitate the processes to request a recount.

Proposed Project Description: Currently, the Elections Department references California Elections Code and the California Code of Regulations in estimating costs on a case-by-case basis and provides initial cost estimates based on information provided from the requester or the requester's appointed representative. California Regulations provide that "all actual costs of the recount that would not have been incurred but for the requestor's particular recount request (which) shall be directly recoverable from the requestor and may include, but are not limited to, additional supervision hours, security guard hours, the elections official's staff hours, space rental, transportation of ballots and materials and administrative costs." (CCR Title 2, Div.7, Chpt. 8, Art 1, 20815).

Some counties have recount guidelines and provide an example of a cost breakdown as opposed to a fee schedule. This is due in part to the fact that locking in a methodology can have unintended consequences. For example, some counties use guidelines that are based on an obsolete voting system (2013) and tabulation procedures that are no longer in place in the State of California. Another

challenge is that requestors often seek information not anticipated in the adopted fee schedule and which can lead to actual costs not being recovered, contrary to California Regulations as noted above. We are not aware of any county fee schedule that is so comprehensive to include “all actual costs of the recount...” (CCR Title 2, Div.7, Chpt. 8, Art 1, 20815).

In response to the referral, the Department is already in the process of drafting recount guidelines with examples of cost breakdowns, similar to the counties referenced, and will include other potential costs that a requester would incur in preparing for the recount, in an attempt to meet California Regulations to recover all costs. This approach is also the most comprehensive in terms of facilitating the recount request and planning process.

Estimated Project Cost: The cost to prepare guidelines is minimal as this is already in process. The cost to prepare a fee schedule would require additional staff time and analysis to prepare a schedule that is comprehensive and accurate of the work conducted in the recount.

Staffing Level Estimate: Staff time for the completion of guidelines that will be made publicly available upon completion will involve the Registrar of Voters, Assistant Registrar of Voters and certified translator. Staff time to complete a comprehensive fee schedule will include the Registrar of Voter, Assistant Registrar of Voters, Business Technology Analyst, and Management Analyst II.

Departmental Challenges: The Department is currently working to analyze actual tasks and charges related to recounts conducted in comparable counties. This process is being undertaken during a major election in coordination with multiple counties and limited staffing resources. Anticipating all possible details of recount request will require flexibility in the fee schedule.

Proposed Response Date: Depending on Board direction, staff can return to the Board with the final recount guidelines by October 18, 2022. Should the Board require a comprehensive fee schedule the Department would request a return to the Board no sooner than February 2023.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This item is in line with the Board’s vision for providing efficient service and cost neutral administration.

Check the related Board of Supervisors Strategic Initiatives:

☒ Administration: Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Prepared by: Jessica Cedillo, Assistant Registrar of Voters, x1499



Approved by: Gina Martinez, Registrar of Voters, x1499



Attachments:

Preliminary Analysis Report

Board Referral No. 2022.17

PowerPoint - Board Referral No. 2022.17: Election Recounts

**Monterey County Board of Supervisors
Referral Submittal Form**

Referral No. 2022.17
Assignment Date: 08/23/22
(Completed by CAO's Office)

SUBMITTAL - Completed by referring Board office and returned to CAO no later than noon on Thursday prior to Board meeting:

Date: 07/25/22	Submitted By: SUPERVISOR CHRIS LOPEZ	District #: 3
Referral Title: Elections Fee Schedule – Recounts		
Referral Purpose: Bring forward recommendations to possibly include creating a fee schedule for candidates to request and plan for recounts when needed.		
Brief Referral Description (attach additional sheet as required): In order to have a transparent electoral process, it is necessary to have a clear methodology and cost for recount requests and processes. Currently, Monterey County does not have guidelines or costs per day that are easily accessible to the public. Sutter, Shasta, Los Angeles and Nevada counties currently have guidelines and rates available on their election websites. The Governor of the State of California may order a has state-funded recount when candidate or measure votes are separated by less or equal to the lesser of 1,000 votes of the number of all votes cast for that office. Having a clear cost, guidelines and indicating possible outcomes that may be reasonable for county-funded recounts for the election process will help Monterey County continue to be a dependable and reliable office for residents, elected officials, and candidates alike.		
Classification - Implication		Mode of Response
<input type="checkbox"/> Ministerial / Minor <input type="checkbox"/> Land Use Policy <input type="checkbox"/> Social Policy <input checked="" type="checkbox"/> Budget Policy		<input type="checkbox"/> Memo <input type="checkbox"/> Board Report <input checked="" type="checkbox"/> Presentation
		Requested Response Timeline
		<input type="checkbox"/> 2 weeks <input type="checkbox"/> 1 month <input checked="" type="checkbox"/> 6 weeks <input type="checkbox"/> Status reports until completed <input type="checkbox"/> Other: _____ <input type="checkbox"/> Specific Date: _____

ASSIGNMENT – Provided by CAO at Board Meeting. Copied to Board Offices and Department Head(s) Completed by CAO's Office:

Department(s): Elections Department	Referral Lead: Gina Martinez	Board Date: 08/23/22
-------------------------------------	------------------------------	----------------------

REASSIGNMENT – Provided by CAO. Copied to Board Offices and Department Head(s). Completed by CAO's Office:

Department(s):	Referral Lead:	Date:
----------------	----------------	-------

ANALYSIS - Completed by Department and copied to Board Offices and CAO:

Department analysis of resources required/impact on existing department priorities to complete referral:	
Analysis Completed By: _____	Department's Recommended Response Timeline
Date: _____	<input type="checkbox"/> By requested date <input type="checkbox"/> 2 weeks <input type="checkbox"/> 1 month <input type="checkbox"/> 6 weeks <input type="checkbox"/> 6 months <input type="checkbox"/> 1 year <input type="checkbox"/> Other/Specific Date: _____

REFERRAL RESPONSE/COMPLETION - Provided by Department to Board Offices and CAO:

Referral Response Date:	Board Item No.:	Referrals List Deletion:
-------------------------	-----------------	--------------------------

Note: Please cc Claudia Escalante, Karina Bokanovich, Rocio Quezada, and Maegan Ruiz-Ignacio on all CAO correspondence relating to referrals.

Board Referral No. 2022.17: Election Recounts

Presented by

Gina Martinez, Registrar of Voters
Jessica Cedillo, Assistant Registrar of Voters

Board Referral No. 2022.17

The referral seeks to have the Elections Department make recommendations that would enhance transparency and facilitate the processes to request a recount.

Specifically, the referral seeks recommendations to possibly include a fee schedule or guidelines for candidates to request and plan for recounts when needed.

An Overview to Recounts

Pre-recount activities

- County prepares systems, produces reports, organizes ballots by precinct, publishes legal notices, certified mail notifications to candidates
- Obtains supplies needed to secure ballots and tally material
- Depending upon request may prepare envelopes and ballot material
- May require procurement of additional location, security, etc.

Recount

- Recounting Ballots
 - System recount
 - Manual Tally

Review

- Reviewing Envelopes

Challenges

- In some cases, requesters exercise their right to challenge votes for opponents
- These challenges will be brought to the designated election personnel member for consideration and determination

Code

- California Regulations provide that “all actual costs of the recount that would not have been incurred but for the requestor’s particular recount request (which) shall be directly recoverable from the requestor and may include, but are not limited to, additional supervision hours, security guard hours, the elections official’s staff hours, space rental, transportation of ballots and materials and administrative costs.” (CCR Title 2, Div.7, Chpt. 8, Art 1, 20815).

MCE: Current practices

Manual Tally

- Add batches to the 1% manual tally for close contests
- Invite campaigns to observe

Communication

- Work with requester or designated appointee to determine what specifically the requester wants included as part of the recount to determine potential costs
- Emails include options based on code and regulations

Request

- The requester must submit a request in writing for official response and estimates

Recounts across the State

- Some counties have recount guidelines and provide an example of a cost breakdown for one to 5 tally boards and other ancillary costs
- Some guidelines currently available online are based on an obsolete voting system (2013) and tabulation procedures that are no longer in place in the State of California.
- We are not aware of any comprehensive county fee schedule that would include “all actual costs of the recount...” (CCR Title 2, Div.7, Chpt. 8, Art 1, 20815).
- All counties require a request to be submitted in writing prior to providing the actual cost for the recount including costs associated with preparation for the recount (systems, organization of ballots by precinct/contest, organization of ballot material and envelopes, legal publications, mailing of notices, etc.)
- When the state receives a request for a statewide recount, the request is required to be submitted in writing identifying which counties will commence the recount and what specific activities will be included as part of the recount. The individual counties then work with the requester to generate actual costs.

Challenges

Guidelines

- Minimal costs
- Provides the baseline costs associated with aspects of the recount and other costs the requester might incur

Fee Schedule

- Costs associated with additional staff time and analysis
- Anticipating all possible details of recount request will require flexibility in the fee schedule.

MCE Recommendations

Recount guidelines – October 18, 2022. Comprehensive approach for candidates to request and plan for a recount when needed. Include examples of cost breakdowns, similar to the counties referenced, will also include other potential costs that a requester would incur in preparing for the recount.

Guidelines will provide methodology to request a recount and expectations of communication and documentation of said communication.

Fee schedule – February 2023. Allows for additional review and analysis to prepare a schedule that is comprehensive and accurate of the work conducted in the recount.

Board Referral No. 2022.17: Election Recounts

Presented by

Gina Martinez, Registrar of Voters
Jessica Cedillo, Assistant Registrar of Voters



Monterey County

Item No.24

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-892

September 27, 2022

Introduced: 9/14/2022

Current Status: Scheduled PM

Version: 1

Matter Type: General Agenda Item

- a. Receive an oral report update to **Board Referral No. 2022.06** which sought an increase in funding allocated to the Virus Integrated Distribution of Aid (VIDA) to maintain operations through December 31, 2022; and
- b. Provide direction to staff.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Receive an oral report update to **Board Referral No. 2022.06** which sought an increase in funding allocated to the Virus Integrated Distribution of Aid (VIDA) to maintain operations through December 31, 2022; and
- b. Provide direction to staff.

SUMMARY:

This staff summary is an update to **Board Referral No 2022.06**, VIDA Project Extension, which sought an increase in funding allocated to the Virus Integrated Distribution of Aid (VIDA) Project to maintain operations through December 31, 2022. The VIDA Project, formerly known as the Community Outreach and Education Pilot Project ("Pilot Project") is a partnership between the County of Monterey and the Community Foundation for Monterey County focused on addressing the disparate impact of the COVID-19 pandemic in low-income and Communities of Color. Using the community health worker (CHW) model, the VIDA Project is implemented in collaboration between the County of Monterey, the Community Foundation for Monterey County and community-based organizations (CBO's) focused on specific census tracts of the lowest quartile of the Healthy Places Index (HPI Census Tracts). The purpose of the VIDA Project is to raise community awareness and education and provide system navigation to help community members access resources for adequate isolation and quarantine, and COVID-19 testing and vaccines.

The VIDA project began in December 2021 through a funding allocation of \$4,989,651 from General Fund Reserve, and Cannabis Tax fund accounts by the Board of Supervisors to the County Administrative Office and the project has continued through several phases and additional funding in response to community needs during the pandemic. The effort currently employs 58 part and full time CHWs or 44 Full-Time Equivalent (FTE) CHWs across eight (8) CBOs, with a recent expansion of their outreach efforts to include providing Medi-Cal application assistance to residents and a pop-up vaccination clinic effort in partnership with Visiting Nurses Association and United Way Monterey County.

BACKGROUND/DISCUSSION:

VIDA has had several phases as approved by the Board of Supervisors and in response to the COVID-19 pandemic and community needs, including: 1) approval by the Board on June 22, 2021 for continuation past the original end date of June 30, 2021 using unspent allocated funds (\$559,000) but with a right-sized approach; 2) a return to the Board July 27, 2021 with the right-sized approach and a 35% reduction in overall CHW numbers from 126 to 80 CHWs; 3) a second approval by the Board on September 28, 2021 to continue the project for an additional six months through March 31, 2022 using already approved but unallocated funds (\$957,344) with additional right-sizing; 4) acceptance on October 17, 2021 of \$3,952,437 in funding from the U.S. Department of Health and Human Services (HHS) Office of the Assistant Secretary to be administered by the County of Monterey Health Department, to fund approximately 18-20 CHWs from July 1, 2021 through June 30, 2023 with a focus on COVID-19 health literacy; and 5) a continuation through December 31, 2022 approved by the Board on March 8, 2022 to support the remaining portion of CHWs not funded by the HHS grant and enable the project to continue at the March capacity of approximately 50 CHWs by using funding support of \$1,570,011 from unspent ARPA funds. Through March 2022, VIDA supported the work of the CHWs across nine organizations. After March 2022, one organization opted to return to pre-COVID-19 pandemic response activities. Some of their CHWs were subsequently hired by other VIDA organizations. As of the end of July 2022, there are 58 part and full time CHWs or 44 FTE CHWs across eight (8) CBOs.

Since March 2022, VIDA CHWs continued to implement public awareness campaigns and community education strategies centered on culturally relevant messaging to influence social behaviors, normalizing and providing COVID-19 testing, use of face covering and social distancing, and addressing vaccine misinformation and supporting vaccine clinics in priority communities. In addition, CHWs were trained in and began supporting individuals with Medi-Cal applications as part of the state of California expansion of Medi-Cal eligibility to those 50 years old and older regardless of documentation status. This support will connect individuals that are more vulnerable to COVID-19 to needed medical resources. All strategies are community-specific and guided by CBO grass-roots community knowledge and supported by various sectors through the COVID-19 Collaborative of the Community Foundation of Monterey County.

From January through July 2022, the VIDA Project had 95,891 individual outreach interactions, providing COVID-19 prevention educational materials and resource connections. They also assisted 987 people with vaccinations at VIDA partner clinics, conducted 18,944 and distributed over 22,559 rapid antigen test kits, and supported 854 individuals with basic needs and resources through COVID-19 isolation and quarantine support. CHWs helped 407 individuals complete the county-wide Community Health Needs Assessment.

CHWs also conducted new outreach in the community around Medi-Cal expansion education and began offering Medi-Cal application assistance at VIDA rapid antigen testing sites. By the end of July 2022, VIDA CHWs had helped complete 64 Medi-Cal applications. In addition to additional advertising signage being developed, each VIDA organization developed new monthly Medi-Cal application targets and outreach plans during an August 4, 2022 VIDA CHW convening. VIDA CHWs also referred a number of individuals to MCHD's Medi-Cal Outreach CHW who in turn completed 158 applications for the period of May through July 2022.

The holistic and culturally relevant approach of the VIDA Project has been successful in meeting its goal of addressing health equity and social justice needs of the residents of Monterey County during the COVID-19 pandemic, with CHW effort hyper-localized in the lowest quartile Healthy Places Index ZIP Codes. In addition, VIDA has established process protocols; training modules and schedules for community outreach and engagement strategies; and communication tools and social media protocols to maximize reach to the populations of focus in the most culturally relevant and linguistically appropriate methods.

Expenditure Report

County ARPA Funds

The expenditures for April through June 2022 were \$523,337 which covered 23 CHWs at six (6) organizations, leaving a balance of \$1,046,675 available for expenditures through December 31, 2022.

HHS Funds

The HHS grant funded expenditures from July 2021 through June 2022 total \$1,259,117 which covered 21 FTE CHWs at two (2) different organizations, administrative staffing, and evaluation for the HHS grant, leaving a balance of \$2,693,320 for expenditures through June 30, 2023.

The tables below show the allocation period and amount, expenditures-to-date, remaining balance and current number of CHW FTEs for each of the two VIDA Project funding sources being administered by the Health Department.

VIDA Project - County ARPA Funds

Allocation Period: April 1, 2022 - December 31, 2022

Expenditure Period: April 1, 2022 - June 30, 2022

Allocation Amount \$1,570,012

Expenditures-to-Date (salaries, benefits, operational supplies) \$523,337

Remaining Balance \$1,046,675

Current Number of Funded CHWs 23

VIDA Project - Federal Health Literacy Grant Award

Grant Period: July 1, 2021 - June 30, 2023 (2 Years)

Expenditure Period: July 1, 2021 - June 30, 2022

FY 2021-23 Grant Amount \$3,952,437

Expenditures-to-Date (contracted services, County staff salaries, benefits, operational supplies)
\$1,258,185

Remaining Balance \$2,694,252

Current Number of Funded CHWs 21

VIDA co-leads have also leveraged the current County funding to secure additional funding for VIDA-related efforts. For pop-up vaccine clinics in partnership with Visiting Nurses Association, an additional combined total of \$423,272 has been granted from the California Department of Public Health Epidemiology and Laboratory Capacity grant to the Health Department Public Health Bureau to the HD Administration Bureau and the Center at Sierra Health Foundation to United Way Monterey County. The Center at Sierra Health Foundation also invited VIDA partner, Mujeres en Accion, to apply for a COVID-19 outreach grant and the VIDA team provided grant-writing support for this successful application.

Efforts are currently underway to support mechanisms or avenues for VIDA CBOs to have sustainable CHW programs, including being ready to be Medi-Cal billing entities and/or partner with licensed Medi-Cal partners to accept and be reimbursed for preventive services for patients referred by a physician or other licensed practitioner of the healing arts. The Health Department held a CHW Stakeholder convening in June 2022 to inform VIDA partners and others about the new Medi-Cal CHW Service Plan Amendment. VIDA co-leads are having discussions with Central California Alliance for Health staff to understand how to support VIDA Project CBOs connect with licensed providers, investigating other counties development of CHW administrative hubs, and exploring the development of a similar hub or hubs in Monterey County. HD staff also collaborated with Cabrillo College on a HRSA CHW Workforce Training grant to support expanded local training and CHW apprenticeship programs in order to strategically meet upcoming state requirements for CHW certification processes. Upcoming national developments include the CDC's proposed \$3 billion grant program using American Rescue Plan-funds to strengthen the future public health workforce, including offering CHWs support to continue their careers as public health professionals beyond the pandemic.

This work supports County of Monterey Health Department's (HD) 2018-2022 Strategic Plan Goals: 1. Empower the community to improve health; 2. Enhance community health and safety through prevention; 3. Ensure access to culturally and linguistically appropriate, customer-friendly, quality health services; and 4. Engage HD workforce and improve operational functions to meet current and developing population health needs. It also supports the following of the ten essential public health services, specifically: 1. Monitor health status to identify and solve community health problems; 3. Inform, educate, and empower people about health issues; 4. Mobilize community partnerships and action to identify and solve health problems; 7. Link people to needed personal health service and assure the provision of health care when otherwise unavailable; and 9. Evaluate effectiveness, accessibility, and quality of personal and population-based health services.

OTHER AGENCY INVOLVEMENT:

The VIDA Project is implemented in partnership with County of Monterey Health Department, Community Foundation for Monterey County, Building Healthy Communities (BHC), Mujeres en Acción, Center for Community Advocacy (CCA), Centro Binacional para el Desarrollo Indígena Oaxaqueño (CBDIO), Lideres Campesinas, City of Gonzales, CHISPA, Pajaro Valley Prevention and Student Assistance (PVPSA) and The Village Project. County Counsel reviewed and approved the Board Report. This item was presented and approved at the Health, Housing, and Human Services Committee Meeting on September 12, 2022.

FINANCING:

There is no financial impact from receiving this report.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This recommendation supports all of the Board of Supervisors Strategic Initiatives. Community Health Workers are a critical and cost-effective, customer-responsive part of the county workforce. They are trustworthy individuals who come from the community they serve and as such are important contributors in our county in emerging stronger from the COVID-19 pandemic and with a focus on reducing historic social and health inequities. They can bolster public health with their efforts, while also addressing broader social and economic needs within their communities. Their continued COVID-19 outreach and education efforts and expansion into social supports not only promotes equitable opportunities for healthy choices, they reduce community stressors that can contribute to improved community safety and a more sustainable infrastructure, contributing to an improved quality of life and economic development.

Mark a check to the related Board of Supervisors Strategic Initiatives

☒ Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☒ Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability, and transparency.

☒ Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☒ Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☒ Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Krista Hanni, MS, PhD, Public Health Program Manager, II, 755-4586

Approved by:

Date: _____
Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachments:

Board Referral No. 2022.06



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-892

September 27, 2022

Introduced: 9/14/2022

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Receive an oral report update to **Board Referral No. 2022.06** which sought an increase in funding allocated to the Virus Integrated Distribution of Aid (VIDA) to maintain operations through December 31, 2022; and
- b. Provide direction to staff.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Receive an oral report update to **Board Referral No. 2022.06** which sought an increase in funding allocated to the Virus Integrated Distribution of Aid (VIDA) to maintain operations through December 31, 2022; and
- b. Provide direction to staff.

SUMMARY:

This staff summary is an update to **Board Referral No 2022.06**, VIDA Project Extension, which sought an increase in funding allocated to the Virus Integrated Distribution of Aid (VIDA) Project to maintain operations through December 31, 2022. The VIDA Project, formerly known as the Community Outreach and Education Pilot Project ("Pilot Project") is a partnership between the County of Monterey and the Community Foundation for Monterey County focused on addressing the disparate impact of the COVID-19 pandemic in low-income and Communities of Color. Using the community health worker (CHW) model, the VIDA Project is implemented in collaboration between the County of Monterey, the Community Foundation for Monterey County and community-based organizations (CBO's) focused on specific census tracts of the lowest quartile of the Healthy Places Index (HPI Census Tracts). The purpose of the VIDA Project is to raise community awareness and education and provide system navigation to help community members access resources for adequate isolation and quarantine, and COVID-19 testing and vaccines.

The VIDA project began in December 2021 through a funding allocation of \$4,989,651 from General Fund Reserve, and Cannabis Tax fund accounts by the Board of Supervisors to the County Administrative Office and the project has continued through several phases and additional funding in response to community needs during the pandemic. The effort currently employs 58 part and full time CHWs or 44 Full-Time Equivalent (FTE) CHWs across eight (8) CBOs, with a recent expansion of their outreach efforts to include providing Medi-Cal application assistance to residents and a pop-up vaccination clinic effort in partnership with Visiting Nurses Association and United Way Monterey County.

BACKGROUND/DISCUSSION:

VIDA has had several phases as approved by the Board of Supervisors and in response to the COVID-19 pandemic and community needs, including: 1) approval by the Board on June 22, 2021 for continuation past the original end date of June 30, 2021 using unspent allocated funds (\$559,000) but with a right-sized approach; 2) a return to the Board July 27, 2021 with the right-sized approach and a 35% reduction in overall CHW numbers from 126 to 80 CHWs; 3) a second approval by the Board on September 28, 2021 to continue the project for an additional six months through March 31, 2022 using already approved but unallocated funds (\$957,344) with additional right-sizing; 4) acceptance on October 17, 2021 of \$3,952,437 in funding from the U.S. Department of Health and Human Services (HHS) Office of the Assistant Secretary to be administered by the County of Monterey Health Department, to fund approximately 18-20 CHWs from July 1, 2021 through June 30, 2023 with a focus on COVID-19 health literacy; and 5) a continuation through December 31, 2022 approved by the Board on March 8, 2022 to support the remaining portion of CHWs not funded by the HHS grant and enable the project to continue at the March capacity of approximately 50 CHWs by using funding support of \$1,570,011 from unspent ARPA funds. Through March 2022, VIDA supported the work of the CHWs across nine organizations. After March 2022, one organization opted to return to pre-COVID-19 pandemic response activities. Some of their CHWs were subsequently hired by other VIDA organizations. As of the end of July 2022, there are 58 part and full time CHWs or 44 FTE CHWs across eight (8) CBOs.

Since March 2022, VIDA CHWs continued to implement public awareness campaigns and community education strategies centered on culturally relevant messaging to influence social behaviors, normalizing and providing COVID-19 testing, use of face covering and social distancing, and addressing vaccine misinformation and supporting vaccine clinics in priority communities. In addition, CHWs were trained in and began supporting individuals with Medi-Cal applications as part of the state of California expansion of Medi-Cal eligibility to those 50 years old and older regardless of documentation status. This support will connect individuals that are more vulnerable to COVID-19 to needed medical resources. All strategies are community-specific and guided by CBO grass-roots community knowledge and supported by various sectors through the COVID-19 Collaborative of the Community Foundation of Monterey County.

From January through July 2022, the VIDA Project had 95,891 individual outreach interactions, providing COVID-19 prevention educational materials and resource connections. They also assisted 987 people with vaccinations at VIDA partner clinics, conducted 18,944 and distributed over 22,559 rapid antigen test kits, and supported 854 individuals with basic needs and resources through COVID-19 isolation and quarantine support. CHWs helped 407 individuals complete the county-wide Community Health Needs Assessment.

CHWs also conducted new outreach in the community around Medi-Cal expansion education and began offering Medi-Cal application assistance at VIDA rapid antigen testing sites. By the end of July 2022, VIDA CHWs had helped complete 64 Medi-Cal applications. In addition to additional advertising signage being developed, each VIDA organization developed new monthly Medi-Cal application targets and outreach plans during an August 4, 2022 VIDA CHW convening. VIDA CHWs also referred a number of individuals to MCHD's Medi-Cal Outreach CHW who in turn completed 158 applications for the period of May through July 2022.

The holistic and culturally relevant approach of the VIDA Project has been successful in meeting its goal of addressing health equity and social justice needs of the residents of Monterey County during the COVID-19 pandemic, with CHW effort hyper-localized in the lowest quartile Healthy Places Index ZIP Codes. In addition, VIDA has established process protocols; training modules and schedules for community outreach and engagement strategies; and communication tools and social media protocols to maximize reach to the populations of focus in the most culturally relevant and linguistically appropriate methods.

Expenditure Report

County ARPA Funds

The expenditures for April through June 2022 were \$523,337 which covered 23 CHWs at six (6) organizations, leaving a balance of \$1,046,675 available for expenditures through December 31, 2022.

HHS Funds

The HHS grant funded expenditures from July 2021 through June 2022 total \$1,259,117 which covered 21 FTE CHWs at two (2) different organizations, administrative staffing, and evaluation for the HHS grant, leaving a balance of \$2,693,320 for expenditures through June 30, 2023.

The tables below show the allocation period and amount, expenditures-to-date, remaining balance and current number of CHW FTEs for each of the two VIDA Project funding sources being administered by the Health Department.

VIDA Project - County ARPA Funds

Allocation Period: April 1, 2022 - December 31, 2022

Expenditure Period: April 1, 2022 - June 30, 2022

Allocation Amount \$1,570,012

Expenditures-to-Date (salaries, benefits, operational supplies) \$523,337

Remaining Balance \$1,046,675

Current Number of Funded CHWs 23

VIDA Project - Federal Health Literacy Grant Award

Grant Period: July 1, 2021 - June 30, 2023 (2 Years)

Expenditure Period: July 1, 2021 - June 30, 2022

FY 2021-23 Grant Amount \$3,952,437

Expenditures-to-Date (contracted services, County staff salaries, benefits, operational supplies)
\$1,258,185

Remaining Balance \$2,694,252

Current Number of Funded CHWs 21

VIDA co-leads have also leveraged the current County funding to secure additional funding for VIDA-related efforts. For pop-up vaccine clinics in partnership with Visiting Nurses Association, an additional combined total of \$423,272 has been granted from the California Department of Public Health Epidemiology and Laboratory Capacity grant to the Health Department Public Health Bureau to the HD Administration Bureau and the Center at Sierra Health Foundation to United Way Monterey County. The Center at Sierra Health Foundation also invited VIDA partner, Mujeres en Accion, to apply for a COVID-19 outreach grant and the VIDA team provided grant-writing support for this successful application.

Efforts are currently underway to support mechanisms or avenues for VIDA CBOs to have sustainable CHW programs, including being ready to be Medi-Cal billing entities and/or partner with licensed Medi-Cal partners to accept and be reimbursed for preventive services for patients referred by a physician or other licensed practitioner of the healing arts. The Health Department held a CHW Stakeholder convening in June 2022 to inform VIDA partners and others about the new Medi-Cal CHW Service Plan Amendment. VIDA co-leads are having discussions with Central California Alliance for Health staff to understand how to support VIDA Project CBOs connect with licensed providers, investigating other counties development of CHW administrative hubs, and exploring the development of a similar hub or hubs in Monterey County. HD staff also collaborated with Cabrillo College on a HRSA CHW Workforce Training grant to support expanded local training and CHW apprenticeship programs in order to strategically meet upcoming state requirements for CHW certification processes. Upcoming national developments include the CDC's proposed \$3 billion grant program using American Rescue Plan-funds to strengthen the future public health workforce, including offering CHWs support to continue their careers as public health professionals beyond the pandemic.

This work supports County of Monterey Health Department's (HD) 2018-2022 Strategic Plan Goals: 1. Empower the community to improve health; 2. Enhance community health and safety through prevention; 3. Ensure access to culturally and linguistically appropriate, customer-friendly, quality health services; and 4. Engage HD workforce and improve operational functions to meet current and developing population health needs. It also supports the following of the ten essential public health services, specifically: 1. Monitor health status to identify and solve community health problems; 3. Inform, educate, and empower people about health issues; 4. Mobilize community partnerships and action to identify and solve health problems; 7. Link people to needed personal health service and assure the provision of health care when otherwise unavailable; and 9. Evaluate effectiveness, accessibility, and quality of personal and population-based health services.

OTHER AGENCY INVOLVEMENT:

The VIDA Project is implemented in partnership with County of Monterey Health Department, Community Foundation for Monterey County, Building Healthy Communities (BHC), Mujeres en Acción, Center for Community Advocacy (CCA), Centro Binacional para el Desarrollo Indígena Oaxaqueño (CBDIO), Lideres Campesinas, City of Gonzales, CHISPA, Pajaro Valley Prevention and Student Assistance (PVPSA) and The Village Project. County Counsel reviewed and approved the Board Report. This item was presented and approved at the Health, Housing, and Human Services Committee Meeting on September 12, 2022.

FINANCING:

Legistar File Number: 22-892

There is no financial impact from receiving this report.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This recommendation supports all of the Board of Supervisors Strategic Initiatives. Community Health Workers are a critical and cost-effective, customer-responsive part of the county workforce. They are trustworthy individuals who come from the community they serve and as such are important contributors in our county in emerging stronger from the COVID-19 pandemic and with a focus on reducing historic social and health inequities. They can bolster public health with their efforts, while also addressing broader social and economic needs within their communities. Their continued COVID-19 outreach and education efforts and expansion into social supports not only promotes equitable opportunities for healthy choices, they reduce community stressors that can contribute to improved community safety and a more sustainable infrastructure, contributing to an improved quality of life and economic development.

Mark a check to the related Board of Supervisors Strategic Initiatives

☒ Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☒ Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability, and transparency.

☒ Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☒ Infrastructure:


- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☒ Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Krista Hanni, MS, PhD, Public Health Program Manager, II, 755-4586

Approved by:

DocuSigned by:

 C7A30BA59CA8423...

Date: 9/16/2022 | 7:57 AM PDT

Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachments:

Legistar File Number: 22-892

Board Referral No. 2022.06



VIDA: Virus-Integrated Distribution of Aid

Community Outreach and Education Program

Summary Report September 2022

Presented to: County of Monterey Board of Supervisors

K. Hanni, PhD, and R. Seepersad, MPH

County of Monterey Health Department

M. Castro, MPH

Community Foundation for Monterey County

9/20/2022

VIDA Values and Principles

- Health Equity
 - Everyone has opportunity to be as healthy as possible
- Social drivers of health and COVID-19 prevention and treatment
 - Tailoring to pandemic and community needs



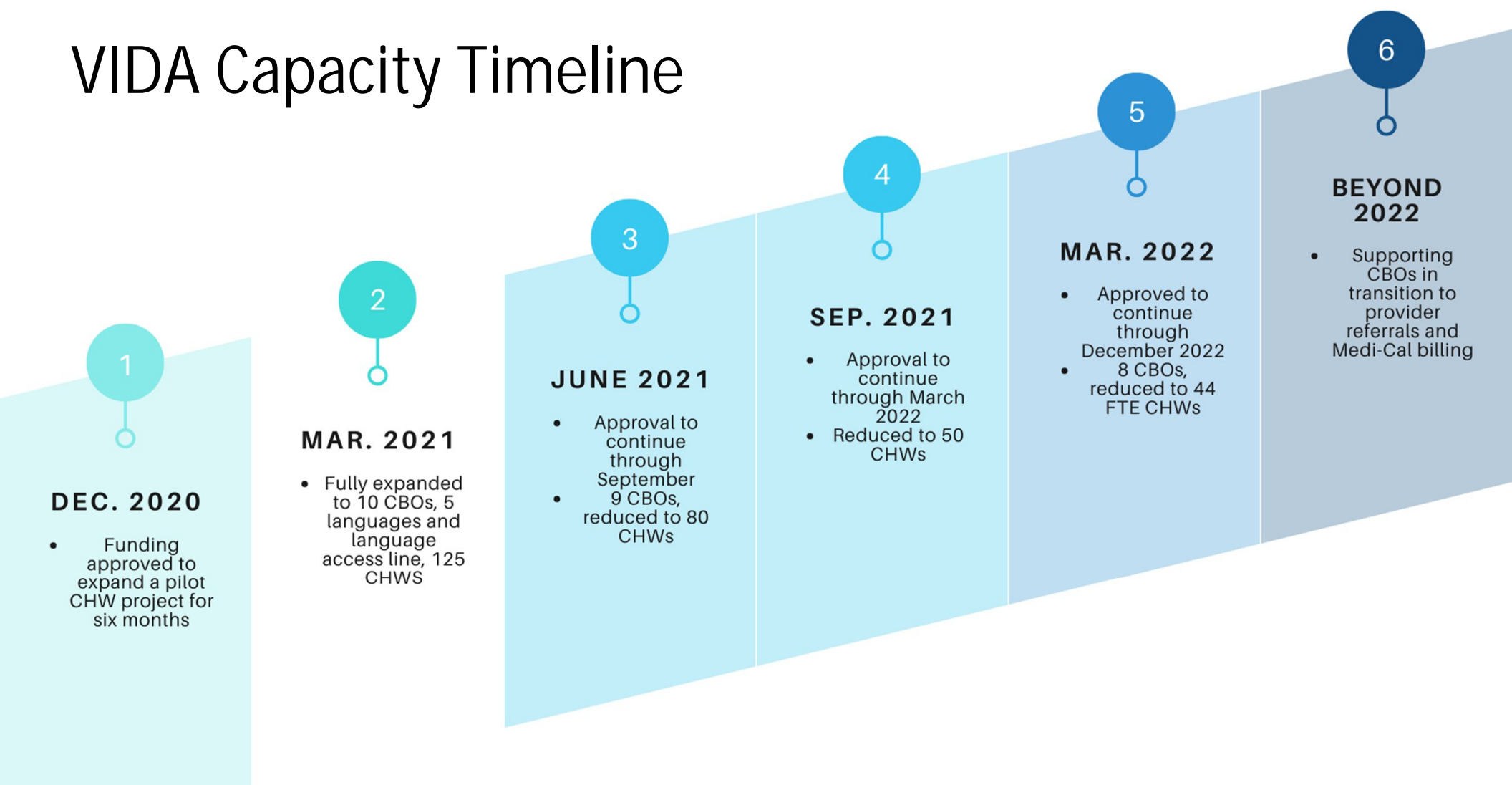
VIDA Strategies

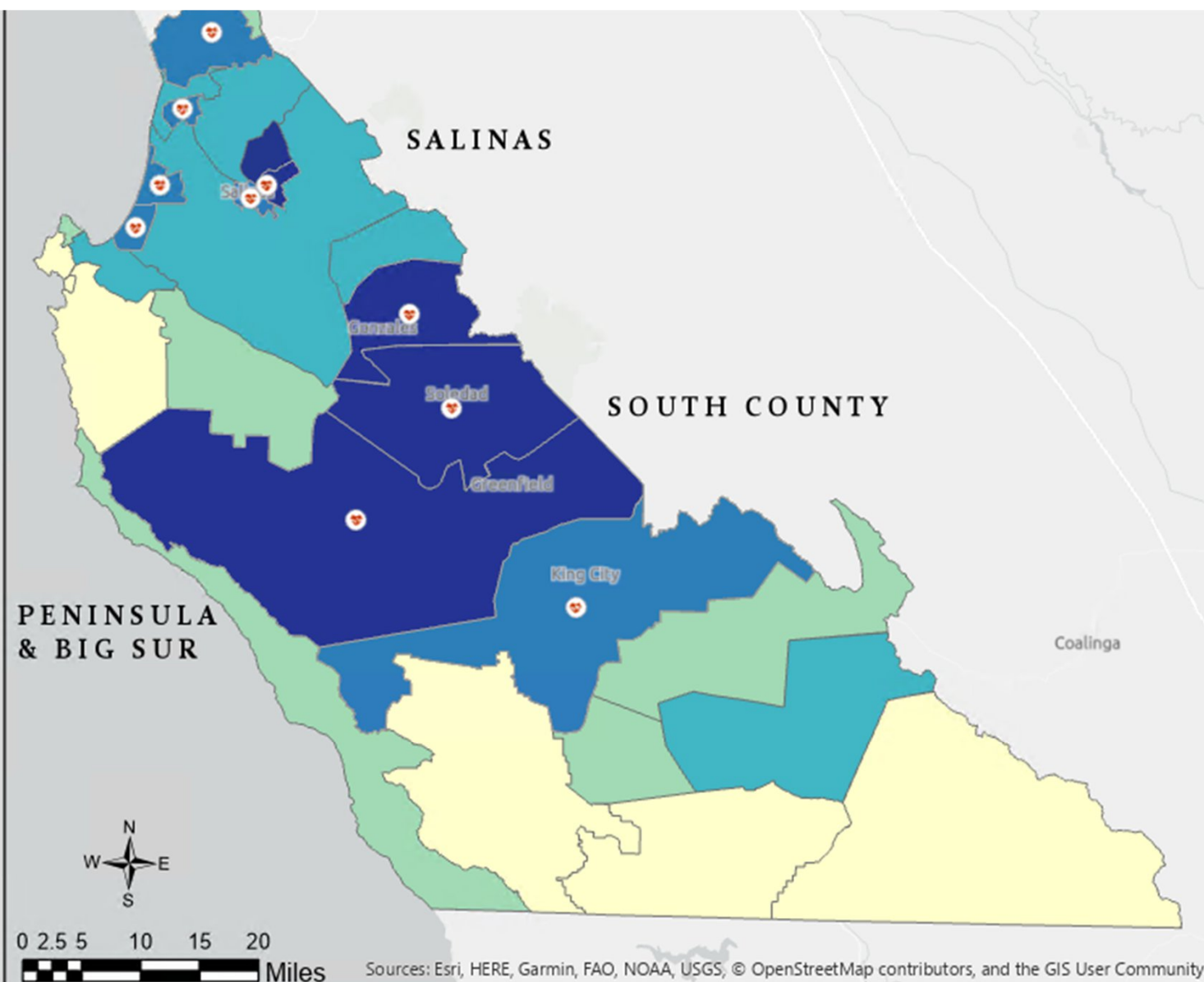
- Reaching most impacted communities
- Trusted messengers
- Public awareness campaign, community education, vaccination and testing supports, and systems navigation
- Culturally relevant messaging and resource connections



THURSDAY'S JUNE 9
TESTING SITE AT THE
PARKING LOT AT 1590
DEL MONTE BLVD,
SEASIDE IS CLOSED
EL SITIO DE PRUEBAS EN
EL ESTACIONAMIENTO
EN 1590 DEL MONTE
BLVD EN LA CIUDAD DE
SEASIDE HA SIDO
CANCELADO

VIDA Capacity Timeline





February 2021 to July 2022 VIDA Interactions

From Less Interactions to Most Interactions

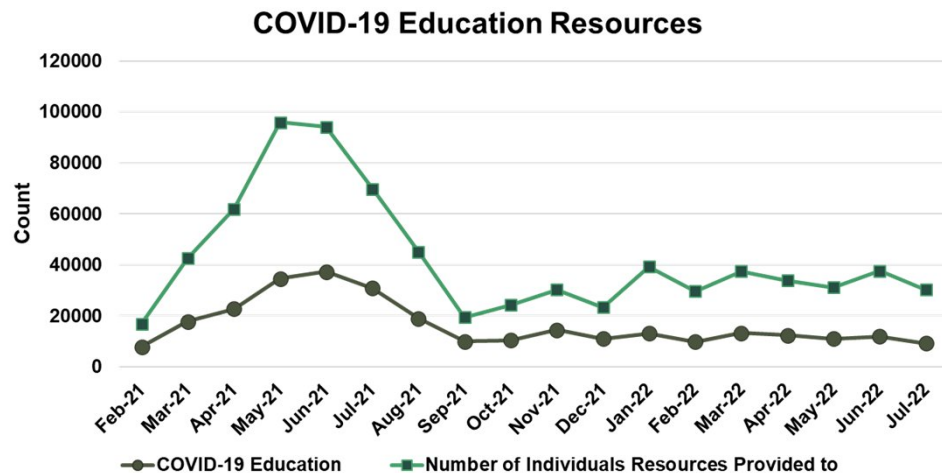


2022 Testing Opportunities Around Monterey County

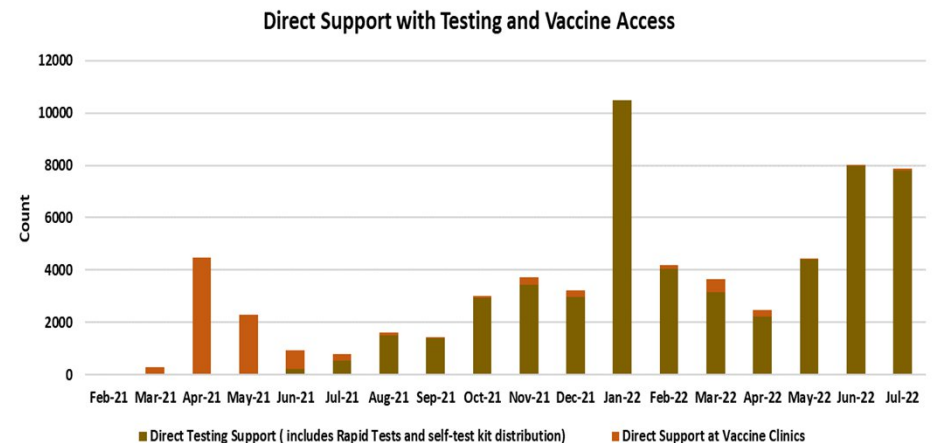


Pivoting Strategies

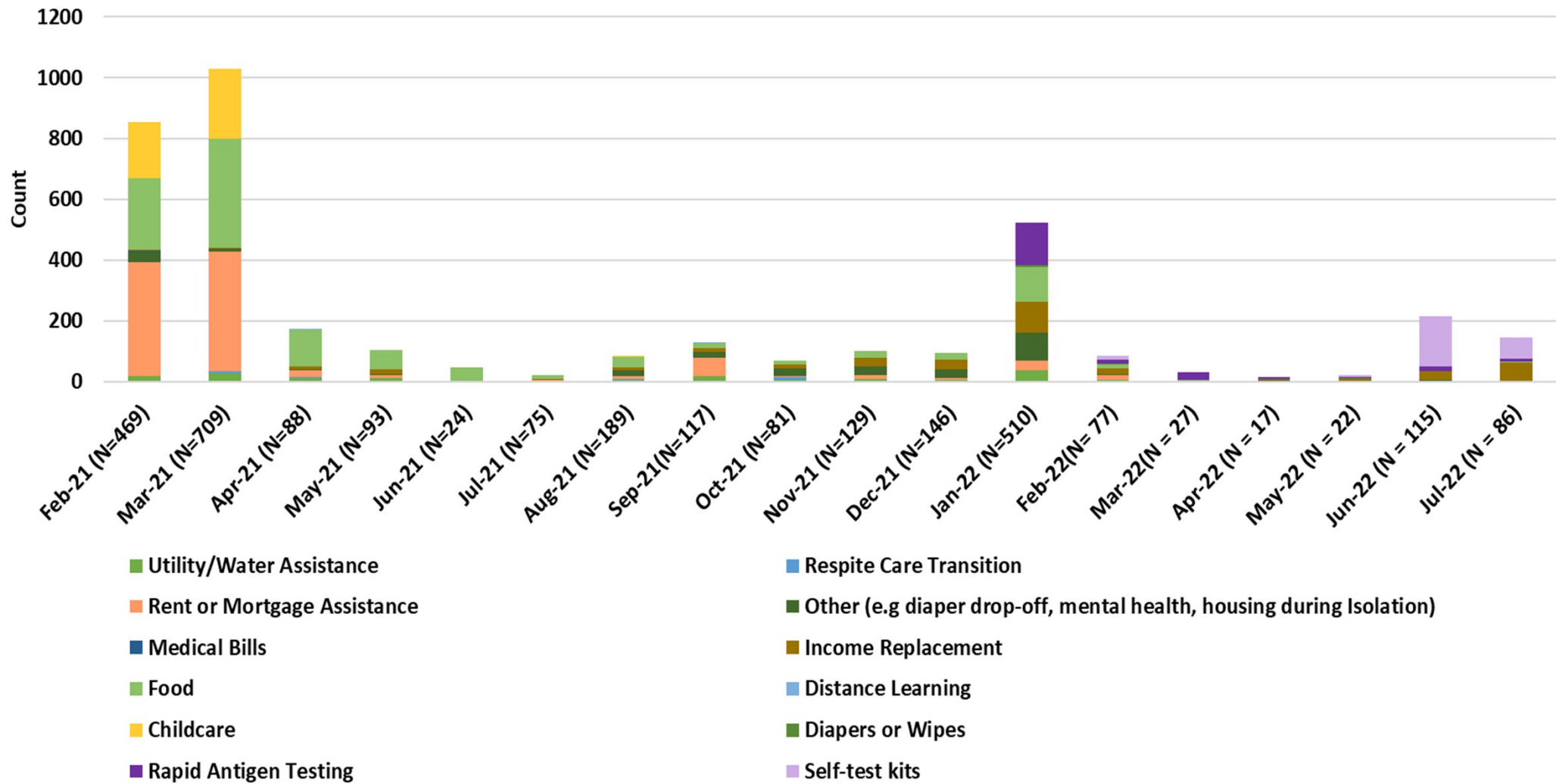
Communication and education strategies early focus to combat misinformation, build community resilience and trust



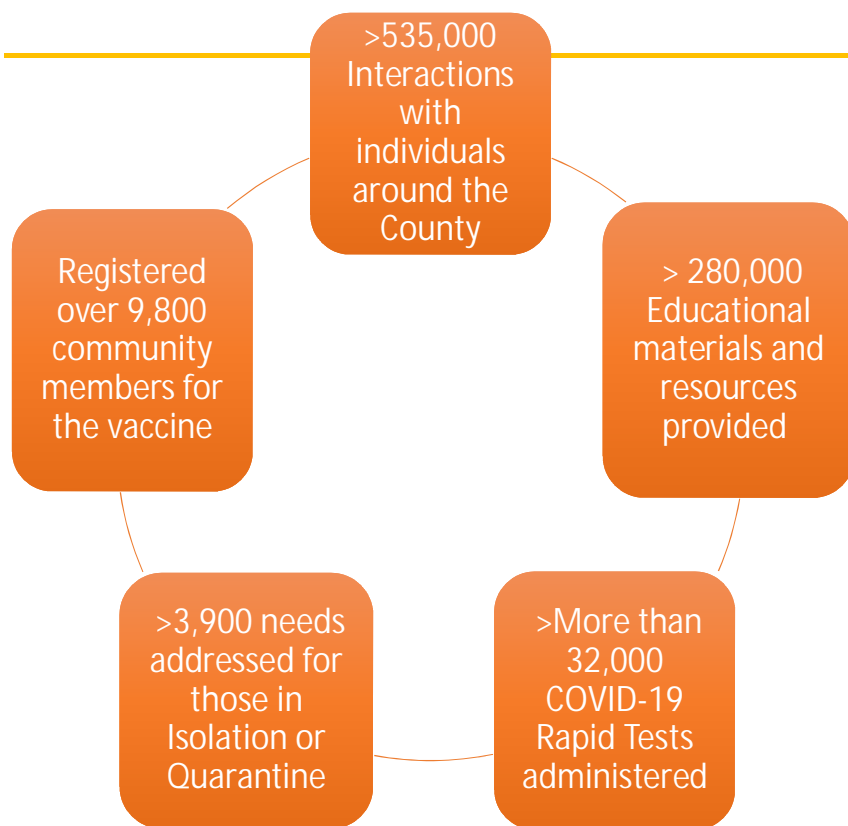
Pivoting to vaccination and then testing strategies



Needs Addressed through Isolation & Quarantine February 2021 - July 2022



Key VIDA Successes



Doy gracias a Dios y a la ayuda que recibí por medio de Building Healthy Communities durante esta situación del COVID-19 y a las personas que están día a día al servicio de la comunidad.

gracia por la ayuda con la comida y el dinero para pagar los gastos por estar en la casa

Trainings and Development

- Reflective Circles
- Digital Literacy
- Grief Training with Health Together
- Mental Health First Aid
- Pediatric vaccinations
- Narcan training



CHW Expertise: Systems Navigation, Community Service Supports, Medical Skills

- Resource supports
 - Food drop-off
 - Diaper and wipes drop-off
 - Alternate housing placement
 - Income replacement stipend
 - Distance learning support
 - Funeral assistance
- Medi-Cal Assistance
 - Completing applications
- Medical skills
 - Testing and vaccination registration
 - Accessing test results
 - Rapid self-testing
 - Vaccine administration, including replacement vaccine cards
 - Isolation and quarantine guidance



Expenditures through June 30, 2022

VIDA Project – County ARPA Funds

Allocation Period: April 1, 2022 – December 31, 2022

Expenditure Period: April 1, 2022 – June 30, 2022

Allocation Amount	\$1,570,012
Expenditures-to-Date (salaries, benefits, operational supplies)	\$523,337
Remaining Balance	\$1,046,675
Current Number of Funded CHWs	23

VIDA Project – Federal Health Literacy Grant Award*

Grant Period: July 1, 2021 – June 30, 2023 (2 Years)

Expenditure Period: July 1, 2021 – June 30, 2022

FY 2021-23 Grant Amount	\$3,952,437
Expenditures-to-Date (contracted services, County staff salaries, benefits, operational supplies)	\$1,258,185
Remaining Balance	\$2,694,252
Current Number of Funded CHWs	21

Sustainability

Continuing to seek opportunities to leverage additional funding

DHCS added CHW services as Medi-Cal benefit starting 7/1/22 (state has yet to finalize directions to Medi-Cal Managed Care Plans)

Developing support materials and connecting CBOs with Alliance

Using United Way Monterey County's Smart Referral Network

Exploring local administrative hub model



Board Action

Receive

Receive an oral report update to Board Referral No. 2022.06

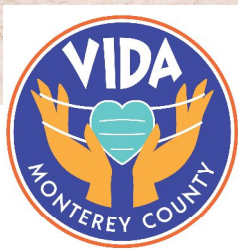
Provide

Provide direction to staff as appropriate



THANK YOU

Monterey County
Board of Supervisors



VIDA CBOs:

BHC, CBDIO, CCA, CHISPA, City of Gonzales, Mujeres en Accion, PVPSA, The Village Project

Collaborations:

COPA, Monterey County Emergency Operations Center, United Way Monterey County, Workforce Development Board, Visiting Nurses Association (VNA), Soledad Medical Clinic, Salinas Valley Memorial Mobile Clinic, Natividad Medical Center, McDonalds (RHC), La Princesa Market, Los Lomas Market, Cabrillo College, Central California Alliance for Health, Bright Beginnings, First 5 Monterey County, Castroville Family Resource Center, CCCIL, CHS, United Way Monterey County, Montage Health, CRLA, HEAL Together

Monterey County Board of Supervisors Referral Submittal Form

Referral No. 2022.06
Assignment Date: 2/08/22
(Completed by CAO's Office)

SUBMITTAL - Completed by referring Board office and returned to CAO no later than noon on Thursday prior to Board meeting:

Date: 1/31/2022	Submitted By: Supervisor Wendy Root Askew	District #: 4
Referral Title: VIDA Project Extension		
Referral Purpose: Increase funding allocated to the VIDA Project to maintain operations through December 31, 2022.		
<p>Brief Referral Description (attach additional sheet as required):</p> <p>In December 2020, the Monterey Board of Supervisors allocated \$4,989,651 to support the expansion and implementation of the Virus Integrated Distribution of Aid Project (VIDA) Project, formerly known as the Community Outreach and Education Pilot Project. VIDA is a partnership between the County of Monterey and the Community Foundation for Monterey County focused on addressing the COVID-19 pandemic's disparate impact in Monterey County's low-income and Communities of Color. Using the community health worker model, the VIDA Project was initially implemented in collaboration with ten community-based organizations (CBO's) focused on specific census tracts of the lowest quartile of the Healthy Places Index (HPI Census Tracts).</p> <p>On June 22, 2021, the Board of Supervisors directed staff to begin a right-sizing process for the VIDA Project. On July 27, 2021, the Board of Supervisors received an update on the phased approach to the right-sizing process, which resulted in a 35% reduction of Community Health Workers (CHWs) across the ten CBOs who are partners of the VIDA Project, effective September 1, 2021. A second right-sizing process subsequently took place, further reducing the VIDA Project.</p> <p>While VIDA continues to play a pivotal role in Monterey County's COVID-19 response—notably holding over 14,000 conversations, administering over 10,000 rapid tests, and assisting over 100 vaccination clinics in Monterey County—the Omicron-variant has caused another COVID-19 surge across the Country, with Monterey County reaching record COVID positivity rates. Monterey County's contribution to VIDA is set to sunset on March 31, 2022. While the Monterey County Health Department has secured additional funding through a HHS Health and Human Services Federal grant, without additional County funding, additional downsizing will be required.</p> <p>This referral requests staff to return with a report outlining costs of continuing the VIDA Project at current operating levels through December 31st.</p>		
Classification - Implication		Mode of Response
<input type="checkbox"/> Ministerial / Minor <input type="checkbox"/> Land Use Policy <input checked="" type="checkbox"/> Social Policy <input checked="" type="checkbox"/> Budget Policy <input type="checkbox"/> Other: _____		<input type="checkbox"/> Memo <input checked="" type="checkbox"/> Board Report <input type="checkbox"/> Presentation
		Requested Response Timeline
		<input checked="" type="checkbox"/> 2 weeks <input type="checkbox"/> 1 month <input type="checkbox"/> 6 weeks <input type="checkbox"/> Status reports until completed <input type="checkbox"/> Other: _____ <input type="checkbox"/> Specific Date: _____

ASSIGNMENT – Provided by CAO at Board Meeting. Copied to Board Offices and Department Head(s) Completed by CAO's Office:

Department(s): Health Department	Referral Lead: Elsa Jimenez/Krista Hanni	Board Date: 2/08/22
--	--	-------------------------------

REASSIGNMENT – Provided by CAO. Copied to Board Offices and Department Head(s). Completed by CAO's Office:

Department(s):	Referral Lead:	Date:
----------------	----------------	-------

ANALYSIS - Completed by Department and copied to Board Offices and CAO:

Department analysis of resources required/impact on existing department priorities to complete referral:	
Analysis Completed By: _____	Department's Recommended Response Timeline
Date: _____	<input type="checkbox"/> By requested date <input type="checkbox"/> 2 weeks <input type="checkbox"/> 1 month <input type="checkbox"/> 6 weeks <input type="checkbox"/> 6 months <input type="checkbox"/> 1 year <input type="checkbox"/> Other/Specific Date: _____

REFERRAL RESPONSE/COMPLETION - Provided by Department to Board Offices and CAO:

Referral Response Date:	Board Item No.:	Referrals List Deletion:
-------------------------	-----------------	--------------------------

Note: Please cc Karina Bokanovich, Rocio Quezada and Maegan Ruiz-Ignacio on all CAO correspondence relating to referrals.



Monterey County

Item No.25

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: OBM 22-133

September 27, 2022

Introduced: 9/19/2022

Version: 1

Current Status: Agenda Ready

Matter Type: Other Board Matters

Board Comments



Monterey County

Item No.26

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-499

September 27, 2022

Introduced: 9/9/2022

Current Status: Natividad Medical Center -
Consent

Version: 1

Matter Type: BoS Agreement

Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 3 to the agreement with Huffmaster Crisis Response, Inc. for nurse and allied professional staffing services in the event of an emergent staffing crisis at NMC, to add \$5,000,000 for a revised total agreement amount not to exceed \$5,901,988, until the conclusion of the staffing need.

RECOMMENDATION:

It is recommended the Board of Supervisors:

Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 3 to the agreement with Huffmaster Crisis Response, Inc. for nurse and allied professional staffing services in the event of an emergent staffing crisis at NMC, to add \$5,000,000 for a revised total agreement amount not to exceed \$5,901,988, until the conclusion of the staffing need.

SUMMARY/DISCUSSION:

Huffmaster is a nationally-recognized healthcare staffing agency, providing emergency staffing and strike staffing solutions to healthcare clients, including hospitals. By providing clinical personnel during an emergent situation, hospitals can continue their vital operations during these situations.

Throughout the pandemic Natividad has experienced extreme census increases, resignations, increased unit sick-outs, difficulty with recruiting experienced specialty staff and a minimum of a two-week compliance requirement for traditional travel staff. All of this threatens Natividad's ability to meet its licensure requirements and nursing and allied professional to patient staff ratios in hospital units. When all regularly assigned staff participate in unit call-in's and fail to report to work, Natividad, committed to patient safety, is put into a position to cancel procedures and plan to divert emergency cases to other hospitals. Amending the existing agreement with Huffmaster to include emergent short-term staffing crisis situations will ensure that by the following day, Natividad is able to provide appropriate staffing levels of nurses and allied professionals to meet the healthcare needs of its patients.

Natividad had to amend the agreement twice to increase funds and is now amending again to increase for more funds as needed.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel approved the amendment No. 3 as to form. The Auditor-Controller approved the amendment No. 3 as to payment provisions. The amendment No. 3 has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on September 9, 2022.

FINANCING:

The cost for this amendment no. 3 is \$5,000,000. The source of funds will be from NMC's enterprise fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The services rendered in this agreement contribute to assisting NMC in the care and treatment of patients.

- ☐ Economic Development
- ☒ Administration
- ☒ Health and Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Janine Bouyea, Human Resources Administrator, 783-2701

Approved by: Charles R. Harris, Chief Executive Officer, 783-2551

Attachments:

Amendment No. 3 to HuffMaster Agreement
Amendment No. 2 to HuffMaster Agreement
Amendment No. 1 to HuffMaster Agreement
Agreement with HuffMaster Crisis Response, Inc.

Attachments on file with the Clerk of the Board



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-499

September 27, 2022

Introduced: 9/9/2022

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 3 to the agreement with Huffmaster Crisis Response, Inc. for nurse and allied professional staffing services in the event of an emergent staffing crisis at NMC, to add \$5,000,000 for a revised total agreement amount not to exceed \$5,901,988, until the conclusion of the staffing need.

RECOMMENDATION:

It is recommended the Board of Supervisors:

Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 3 to the agreement with Huffmaster Crisis Response, Inc. for nurse and allied professional staffing services in the event of an emergent staffing crisis at NMC, to add \$5,000,000 for a revised total agreement amount not to exceed \$5,901,988, until the conclusion of the staffing need.

SUMMARY/DISCUSSION:

Huffmaster is a nationally-recognized healthcare staffing agency, providing emergency staffing and strike staffing solutions to healthcare clients, including hospitals. By providing clinical personnel during an emergent situation, hospitals can continue their vital operations during these situations.

Throughout the pandemic Natividad has experienced extreme census increases, resignations, increased unit sick-outs, difficulty with recruiting experienced specialty staff and a minimum of a two-week compliance requirement for traditional travel staff. All of this threatens Natividad's ability to meet its licensure requirements and nursing and allied professional to patient staff ratios in hospital units. When all regularly assigned staff participate in unit call-in's and fail to report to work, Natividad, committed to patient safety, is put into a position to cancel procedures and plan to divert emergency cases to other hospitals. Amending the existing agreement with Huffmaster to include emergent short-term staffing crisis situations will ensure that by the following day, Natividad is able to provide appropriate staffing levels of nurses and allied professionals to meet the healthcare needs of its patients.

Natividad had to amend the agreement twice to increase funds and is now amending again to increase for more funds as needed.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel approved the amendment No. 3 as to form. The Auditor-Controller approved the amendment No. 3 as to payment provisions. The amendment No. 3 has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on September 9, 2022.

FINANCING:

The cost for this amendment no. 3 is \$5,000,000. The source of funds will be from NMC's enterprise fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The services rendered in this agreement contribute to assisting NMC in the care and treatment of patients.

- ☐ Economic Development
- ☒ Administration
- ☒ Health and Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Janine Bouyea, Human Resources Administrator, 783-2701

Approved by: Charles R. Harris, Chief Executive Officer, 783-2551

Attachments:

- Amendment No. 3 to HuffMaster Agreement
- Amendment No. 2 to HuffMaster Agreement
- Amendment No. 1 to HuffMaster Agreement
- Agreement with HuffMaster Crisis Response, Inc.

Attachments on file with the Clerk of the Board

Charles R Harris

Charles R. Harris, M.D., Chief Executive Officer

09/21/2022

Date

**AMENDMENT NO. 3
TO SERVICES AGREEMENT
BETWEEN HUFFMASTER CRISIS RESPONSE, INC., AND
THE COUNTY OF MONTEREY ON BEHALF OF NATIVIDAD MEDICAL CENTER
FOR
Nurse and Allied Professional Staffing Services**

This Amendment No. 3 to the Services Agreement (“Agreement”) which was effective on August 20, 2021 is entered into by and between the County of Monterey, on behalf of Natividad Medical Center (“NMC”), and HuffMaster Crisis Response, Inc. (“CONTRACTOR”); **From this point forward, the party referenced previously as “NMC” shall be referenced as “COUNTY” and collectively, COUNTY and CONTRACTOR are referred to as the “Parties” to this Agreement, with respect to the following:**

RECITALS

WHEREAS, the Agreement was executed for Nurse and Allied Professional Staffing Services with a term August 20, 2021 through **conclusion of Disputes**, and a total Agreement amount not to exceed \$93,988; and

WHEREAS, COUNTY and CONTRACTOR amended the Agreement via Amendment No. 1 to increase the total Agreement amount by an additional \$458,000 for a total Agreement amount not to exceed \$551,988.

WHEREAS, COUNTY and CONTRACTOR amended the Agreement via Amendment No. 2 to increase the total Agreement amount by an additional \$350,000 for a total Agreement amount not to exceed \$901,988.

WHEREAS, COUNTY and CONTRACTOR currently wish to amend the Agreement to increase the total Agreement amount by an additional \$5,000,000 for a total Agreement amount not to exceed \$5,901,988.

AGREEMENT

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

The Agreement is hereby renewed on the terms and conditions as set forth in the Original Agreement, Amendment No. 1, and Amendment No. 2, incorporated herein by this reference, except as specifically set forth below.

1. Section 3 / Paragraph titled, “Payment Terms” shall be amended to the following:
“COUNTY shall pay the CONTRACTOR in accordance with the payment provisions set forth in Schedule-A of the Original Agreement. The total amount payable by COUNTY to CONTRACTOR under this Agreement shall not exceed the sum of \$5,901,988.”
2. Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this Amendment No. 3 and shall continue in full force and effect as set forth in the Original Agreement and in Amendment No. 3.
3. A copy of this Amendment No. 3 shall be attached to the Agreement.
4. This Amendment No. 3 is effective when signed by both parties.

IN WITNESS WHEREOF, the Parties hereto are in agreement with this Amendment No. 3 on the basis set forth in this document and have executed this Amendment No.3 on the day and year set forth herein.

COUNTY OF MONTEREY on behalf of
NATIVIDAD MEDICAL CENTER

By: _____
Charles R. Harris, Interim CEO

Date: _____

APPROVED AS TO LEGAL PROVISIONS

By:  _____
Monterey County Deputy County Counsel


Date: Chief Deputy County Counsel, 9/2/2022

APPROVED AS TO FISCAL PROVISIONS

By:  _____
Monterey County Deputy Auditor/Controller


Date: 9/2/2022

HUFFMASTER CRISIS RESPONSE, INC.

By:  _____
(Signature of: Chair, President, or Vice-President)

Trevor Fandale VP of Special Projects
Name and Title

Date: September 2nd 2022

By:  _____
(Signature of: Secretary, Asst. Secretary, CFO,
Treasurer, or Asst. Treasurer)

Michael Ponke, CFO

Name and Title

Date: 9/2/2022

*****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 (two signatures required).

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 (two signatures required).

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 (one signature required).



Monterey County Board of Supervisors

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066
www.co.monterey.ca.us

A motion was made by Supervisor Wendy Root Askew, seconded by Supervisor John M. Phillips to:

Agreement No.: A-15495; Amendment No. 2

Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 2 to the agreement with Huffmaster Crisis Response, Inc. for nurse and allied professional staffing services in the event of an emergent staffing crisis at NMC, to add \$350,000 for a revised total agreement amount not to exceed \$901,988, until the conclusion of the staffing need.

PASSED AND ADOPTED on this 21st day of June 2022, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams

NOES: None

ABSENT: None

(Government Code 54953)

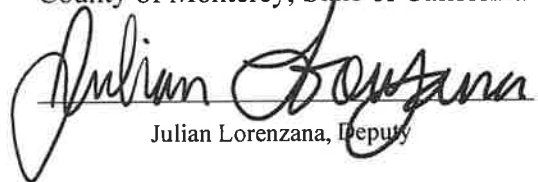
I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting June 21, 2022.

Dated: June 24, 2022

File ID: A 22-322

Agenda Item No.: 36

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California



Julian Lorenzana, Deputy

Craig Cassidy

Agreement No. A-15495

**AMENDMENT NO. 2
TO SERVICES AGREEMENT
BETWEEN HUFFMASTER CRISIS RESPONSE, INC., AND
THE COUNTY OF MONTEREY ON BEHALF OF NATIVIDAD MEDICAL CENTER
FOR
Nurse and Allied Professional Staffing Services**

This Amendment No. 2 to the Services Agreement ("Agreement") which was effective on August 20, 2021 is entered into by and between the County of Monterey, on behalf of Natividad Medical Center ("NMC"), and HuffMaster Crisis Response, Inc. ("CONTRACTOR"); **From this point forward, the party referenced previously as "NMC" shall be referenced as "COUNTY" and collectively, COUNTY and CONTRACTOR are referred to as the "Parties" to this Agreement, with respect to the following:**

RECITALS

WHEREAS, the Agreement was executed for Nurse and Allied Professional Staffing Services with a term August 20, 2021 through **conclusion of Disputes**, and a total Agreement amount not to exceed \$93,988; and

WHEREAS, COUNTY and CONTRACTOR amended the Agreement via Amendment No. 1 to increase the total Agreement amount by an additional \$458,000 for a total Agreement amount not to exceed \$551,988.

WHEREAS, COUNTY and CONTRACTOR currently wish to amend the Agreement to increase the total Agreement amount by an additional \$350,000 for a total Agreement amount not to exceed \$901,988.

AGREEMENT

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

The Agreement is hereby renewed on the terms and conditions as set forth in the Original Agreement and Amendment No 1, incorporated herein by this reference, except as specifically set forth below.

1. Section 3 / Paragraph titled, "Payment Terms" shall be amended to the following:
"COUNTY shall pay the CONTRACTOR in accordance with the payment provisions set forth in Schedule-A of the Original Agreement. The total amount payable by COUNTY to CONTRACTOR under this Agreement shall not exceed the sum of \$901,988."
2. Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this Amendment No. 2 and shall continue in full force and effect as set forth in the Original Agreement and in Amendment No. 2.
3. A copy of this Amendment No. 2 shall be attached to the Agreement.
4. This Amendment No. 2 is effective when signed by both parties.

IN WITNESS WHEREOF, the Parties hereto are in agreement with this Amendment No. 2 on the basis set forth in this document and have executed this Amendment No.2 on the day and year set forth herein.

COUNTY OF MONTEREY on behalf of
NATIVIDAD MEDICAL CENTER

By: [Signature]
for Charles R. Harris, Interim CEO

Date: 6-21-22

APPROVED AS TO LEGAL PROVISIONS

By: [Signature]
Monterey County Deputy County Counsel

Date: Chief Deputy County Counsel 05/31/2022

APPROVED AS TO FISCAL PROVISIONS

By: [Signature]
Monterey County Deputy Auditor/Controller

Date: 6-7-2022

HUFFMASTER CRISIS RESPONSE, INC.

By: Craig Cassady
(Signature of: Chair, President, or Vice-President)

Craig Cassady, President
Name and Title

Date: 05/25/2022

By: Michael Ponke
(Signature of: Secretary, Asst. Secretary, CFO,
Treasurer, or Asst. Treasurer)

Michael Ponke, VP of Finance
Name and Title

Date: 5/25/2022

*****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 (two signatures required).

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 (two signatures required).

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 (one signature required).



Monterey County Board of Supervisors

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066
www.co.monterey.ca.us

A motion was made by Supervisor Chris Lopez seconded by Supervisor Luis A. Alejo to:

Agreement No.: A-15495

Authorize the execution by the Interim Chief Executive Officer (CEO) for Natividad Medical Center (NMC) or his designee of amendments to an agreement with Huffmaster Crisis Response, Inc., for nurse and allied professional staffing services in the event of a labor strike at Natividad Medical Center, to increase the current maximum liability of \$93,988 in additional amounts as needed, until the conclusion of the labor dispute. (ADDED VIA ADDENDA)

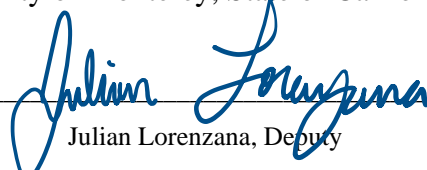
PASSED AND ADOPTED on this 24th day of August 2021, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams
NOES: None
ABSENT: None
(Government Code 54953)

I, Valerie Ralph, 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 82 for the meeting August 24, 2021.

Dated: September 1, 2021
File ID: A 21-463
Agenda Item No.: 22.1

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California


Julian Lorenzana, Deputy

**AMENDMENT NO. 1
TO SERVICES AGREEMENT
BETWEEN HuffMaster Crisis Response, Inc., AND
THE COUNTY OF MONTEREY ON BEHALF OF NATIVIDAD MEDICAL CENTER
FOR
Nurse and allied professional staffing services**

This Amendment No. to the Services Agreement ("Agreement") which was effective on August 20, 2021 is entered into by and between the County of Monterey, on behalf of Natividad Medical Center ("NMC"), and HuffMaster Crisis Response, Inc. ("CONTRACTOR"); **From this point forward, the party referenced previously as "NMC" shall be referenced as "COUNTY" and collectively, COUNTY and CONTRACTOR are referred to as the "Parties" to this Agreement, with respect to the following:**

RECITALS

WHEREAS, the Agreement was executed for Nurse and Allied Professional Staffing Services with a term August 20, 2021 through **conclusion of Dispute**, and a total Agreement amount not to exceed \$93,988; and

WHEREAS, COUNTY and CONTRACTOR currently wish to amend the Agreement to allow for services to continue, with a \$458,000 increase for a total Agreement amount of \$551,988.

AGREEMENT

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

The Agreement is hereby renewed on the terms and conditions as set forth in the Original Agreement and Amendment No 1, incorporated herein by this reference, except as specifically set forth below.

1. Section 3 / Paragraph titled, "Payment Terms" shall be amended to the following:
"COUNTY shall pay the CONTRACTOR in accordance with the payment provisions set forth in Schedule-A of the Original Agreement. The total amount payable by COUNTY to CONTRACTOR under this Agreement shall not exceed the sum of \$551,988."
2. Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this Amendment No. 1 and shall continue in full force and effect as set forth in the Original Agreement and in Amendment No. 1.
3. A copy of this Amendment No. 1 shall be attached to the Agreement.

The remainder of this page was intentionally left blank.

~ Signature page to follow ~

IN WITNESS WHEREOF, the Parties hereto are in agreement with this Amendment No. 1 on the basis set forth in this document and have executed this Amendment No.1 on the day and year set forth herein.

COUNTY OF MONTEREY on behalf of
NATIVIDAD MEDICAL CENTER

By: 
Charles R. Harris, Interim CEO

Date: 9/13/21

APPROVED AS TO LEGAL PROVISIONS

By: 
Monterey County Deputy County Counsel

Date: 9/13/2021

APPROVED AS TO FISCAL PROVISIONS

By: 
Monterey County Deputy Auditor/Controller

Date: 9-13-2021

CONTRACTOR

CONTRACTOR's Business Name


See instructions below

By: 
(Signature of: Chair, President, or Vice-President)

Craig Cassady President

Name and Title

Date: 9/10/21

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

Michael Ponke Director of Finance

Name and Title

Date: 9/10/2021

*****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 (two signatures required).

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 (two signatures required).

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 (one signature required).



MASTER SERVICES AGREEMENT HEALTHCARE STRIKE

For

COUNTY OF MONTEREY, ON BEHALF OF NATIVIDAD
MEDICAL CENTER
Salinas, California

August 20, 2021

Our Mission Statement

We keep business in business by providing comprehensive, custom business interruption, investigative and security management services to our customers. We are dedicated to leading the industry by consistently exceeding expectations of our customers and employees.

MASTER SERVICES AGREEMENT

This Agreement is made and entered into as of the earlier of the date of execution or when Services first commenced by and between **Huffmaster Crisis Response, Inc.**, with principal offices at **1055 W. Maple Road, Clawson, Michigan 48017** (“Huffmaster”), and **County of Monterey, on behalf of Natividad Medical Center** (“Client”), for its facility, or facilities, located at **1441 Constitution Boulevard, Salinas, CA 93906** (the “Facility”).

WHEREAS, Huffmaster is engaged in the business of offering staffing and security services in the event of a labor strike (collectively, the “Services”).

WHEREAS, Client requires the aforementioned Services due to a labor dispute (the “Dispute”) and wishes to retain Huffmaster on the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Services

Client hereby retains Huffmaster to provide Services pursuant to the terms contained in the Schedule(s) attached hereto and incorporated herein by reference.

2. Term

2.1 **Term**. This Agreement shall be effective upon its execution and shall be effective until the conclusion of the Dispute (the “Initial Term”). The parties may extend the term for any length of time by mutual agreement in writing (the “Renewal Term”).

2.2. **Cancellation**. The Agreement may be cancelled by either party upon the earlier of: (1) delivery of written notice of termination to the other party effective seven (7) days after the notice is received, or; (2) delivery of written notice to Huffmaster that Client has reached a tentative agreement with its labor organization. Failure of Client to promptly pay all amounts due as required by this Agreement shall grant Huffmaster the option to terminate its Services upon twenty-four (24) hours written notice to Client.

2.3 **Reimbursement of Expenses**. Upon termination of this Agreement, Client shall pay, or reimburse Huffmaster for any termination expenses incurred in returning all Huffmaster Personnel to their original point of origin.

3. Payment Terms

3.1 **Fees**. Client shall pay to Huffmaster the fees and rates as described in the attached Schedule(s) (collectively, the “Fees”). Huffmaster reserves the right to modify the Fees in the event of any change in law, regulation, current market markups, or governmental policy which impacts the cost of providing the Services to the Client. The maximum liability of this Agreement is \$93,988. Further increases in the maximum liability shall be subject to written amendments executed by the parties.

3.2 **Payment of Fees**. All payments made hereunder shall be in United States Dollars and shall be made by wire transfer. All Fees are due within seven (7) days of receipt of Huffmaster’s invoice, unless otherwise stated herein. Huffmaster will send invoices to the Client’s designated representative. Huffmaster reserves the right to withhold delivery of the Services until the Fees that are due on the

Effective Date are received by Huffmaster. Client agrees to waive all confidentiality covenants made by Huffmaster to Client in Huffmaster's pursuit of collection of any balance due.

3.3 Late Payment Charges. Huffmaster may charge a late fee of one and one-half percent (1.5%) per month on all amounts not timely paid to Huffmaster or the highest rate allowed by law, whichever is less.

3.4 Commitment Fees, Preparation Fees, and Activation Fees. Client shall pay a Tiered Pre-Strike Deposit of \$200.00 - \$250.00 per person fee for all Nursing, Administrative and Security Personnel (the "Commitment Fee") as follows:

Less Than 100 Personnel	\$250.00 Per Person
Greater Than 100 Personnel	\$200.00 Per Person

Due to the difficulty in recruiting and licensing **Allied & Service Personnel** (defined in the attached schedule(s)) to work during a strike, a **\$250.00 per person** fee ("Commitment Fee") is required for all Allied & Service Personnel.

All Commitment Fees are due to Huffmaster immediately upon execution of a letter of agreement, or this Agreement, prior to a notice of intent to strike. Commitment Fees are used by Huffmaster to perform recruiting activities for a thirty (30) day pre-strike period. An additional Commitment Fee (the "Recurring Commitment Fee") will be due to Huffmaster for each recurring thirty (30) day period requested by the Client, prior to the receipt of a notice of intent to strike. The Recurring Commitment Fee will be reduced by twenty-five percent (25%) for the first Recurring Commitment Fee only. In addition, any Recurring Commitment Fee initiated by the Client may be modified based upon any change in staffing needs communicated to Huffmaster by the Client.

Upon receipt of a notice of intent to strike, Huffmaster will bill Client \$250.00 per person fee ("Preparation Fee") for all Personnel that will be provided by Huffmaster to Client ("Personnel"). In the event the Agreement is executed after the Client has received a notice of intent to strike, the Client shall be charged a fee of **\$750.00** per Personnel ("Activation Fee").

Upon postponement of a strike, Client shall be charged a fee of \$150.00 per Personnel ("Preparation Fee") due upon the Client's receipt of a subsequent notice of intent to strike.

All Commitment, Preparation, and Activation Fees are used when paid to recruit, prepare, and activate Personnel to perform the Services and are therefore non-refundable.

Once Facility provides Companies with written authorization to begin recruiting, an Operational Needs Analysis (ONA) meeting will be scheduled to resolve file requirements/immunizations, electronic file delivery, scheduling, Orientation schedule/process, **badging** process, and traffic flow for start and end of shift. The Operational Needs Analysis meeting will include the following personnel from Facility: Employee Health, Human Resources, Scheduling, and Licensing (including meeting with the Licensing Board).

3.5 Minimum Hourly Guarantees. Six (6) days prior to the commencement of the strike, Client is to pay hourly guarantees for all Personnel, which are equal to **sixty (60)** hours pay per person at the hourly rate specified in the attached schedule(s) (the "Minimum Hourly Guarantee"). The Minimum Hourly Guarantee becomes non-refundable for any Personnel that begin travel prior to cancellation.

Client must confirm by actual phone conversation followed by an e-mail or fax, with Craig Cassady or Huffmaster that the Personnel are to begin travel, so that they may report or assemble as agreed in the attached schedule(s). Huffmaster will not deploy Personnel until written instructions are received.

Four (4) days prior to the commencement of the strike or upon commencement of travel by the Personnel, whichever is sooner, Client shall be billed for the estimated travel, housing, per diem, equipment, and pre/post-strike costs. In the event of cancellation, Huffmaster will refund all recoverable deposits for housing and transportation.

Client shall pay a deposit to Huffmaster on or before the first day of the strike. equal to forty (40) hours regular rate plus forty-four (44) hours overtime rate per person, minus the Minimum Hourly Guarantee ("First Weeks Deposit"). Estimated housing and per diem expenses shall also be included.

Huffmaster requires a deposit which is due on the first day of each forthcoming week ("Forthcoming Weeks Deposit"). The Forthcoming Weeks Deposit is equal to forty (40) hours regular rate plus forty-four (44) hours overtime rate per person. Estimated housing and per diem expenses shall also be included.

3.6 Training and Orientation. All Personnel will undergo training and orientation as required by the Client ("Orientation"). Client shall be responsible for providing Orientation to all Personnel and shall provide documentation of same to Huffmaster. Time in which the Personnel are required to be present and prepared to work is billed at the Personnel's regular hourly rates. In the event that the strike settles prior to the first scheduled shift, all time spent in Orientation is included in the Minimum Hourly Guarantee and all stand-by hours are paid in addition to the Minimum Hourly Guarantee.

3.7 On Call. Client shall pay \$30.00 an hour for all hours that Personnel are placed On Call. If called in, Client shall be invoiced for a minimum call back of two (2) hours, billed at overtime rates. All hours that Personnel work in excess of thirteen (13) hours on the day of the strike, and everyday thereafter until the strike ends, is considered call back and Huffmaster shall bill Client at overtime rates.

4. Scheduling and Hourly Rates

4.1 Scheduling of Personnel. Client shall be billed twelve (12) hours per day for all deployed Personnel. Personnel shall be available to work a minimum of twelve (12) hours per day for up to six (6) days per week. Client shall pay for each shift, or portion thereof, during which the Personnel worked, traveled or was guaranteed, at the rates agreed upon in the attached schedule(s).

4.2 Minimum Weekly Guarantee. Client shall be billed a minimum of sixty (60) hours per week for all deployed Personnel at the hourly rate specified in the attached Schedule for each full week that Personnel are deployed.

4.3 Overtime. Client shall be billed overtime rate amounts for all Personnel hours worked in accordance with the attached schedule(s). The overtime rate is invoiced pursuant to the bill rate and is calculated in accordance with local, state and federal overtime requirements.

4.4 Double Time. Client shall be billed for double time shall for all actual work hours performed on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day to all Personnel.

4.5 Standby. If Personnel have begun travel to the Client and the strike is postponed, upon Client's request that Personnel be placed on standby until the strike starts or is settled, Client shall be billed for Personnel at the standby rates. The time Personnel are on standby shall be billed in addition to the Weekly Guarantees. If Client requires Personnel to be deployed in excess of one day prior to the anticipated start date, then Personnel shall be treated as on Standby for any day after they are deployed, with the exception of the day they are in Orientation hours.

4.6 Utilization of the Personnel. Client agrees to utilize Personnel in skilled areas only. If required to float, Personnel will only float to areas in which they are skilled and experienced to work within, subject to written Huffmaster approval.

4.7 Acknowledgment of Huffmaster Staff Scheduling. Client acknowledges that Huffmaster supervisory staff, such as the Site Coordinator and Labor Coordinators commonly work more than twelve (12) hours per shift and that Huffmaster's Shift Supervisor and Labor Coordinators may, if necessary, extend shifts for Personnel beyond twelve (12) hours, and all such costs shall be borne by the Client.

4.8 Staffing During Work Stoppage. Huffmaster's Personnel shall only work while the work stoppage is in progress, unless otherwise agreed upon by the parties in writing. At all times the Personnel shall remain under the direct supervision of Client.

4.9 Notification Requirements. Client shall timely notify Huffmaster of staffing needs and any changes that occur in advance of the notice of intent to strike received by Client from the union. Upon receipt of the notice of intent to strike, Client shall immediately notify Huffmaster via telephone and in writing and provide a confirmed order of Personnel specifying exact numbers per area of practice. Failure to timely notify Huffmaster may result in a delay in deployment of the Personnel and Huffmaster shall be excused from its deployment timelines for the length of any delay in notification.

4.10 Performance Evaluation of Personnel. Client shall promptly complete and provide Huffmaster with a formal performance evaluation form supplied by Huffmaster for each Personnel provided in connection with the assignment's completion date.

4.11 Timekeeping. Client shall ensure a supervisor is available and authorized to certify Personnel time sheets at the conclusion of each shift worked by Personnel. In the absence of a Client supervisor, Client shall not dispute the hours worked by Personnel. Copies of these timesheets shall be made available to Client within a reasonable time upon Huffmaster's receipt of a written request.

5. Health Care Staffing

5.1 Joint Commission Standards. Huffmaster will coordinate with Client to the extent necessary to meet or exceed the Joint Commission Standards provided by Personnel. Each Facility shall be assigned two (2) Labor Coordinators. Personnel shall be subject to Client policies and practices, in the performance of their respective duties.

5.2 Orientation. During Orientation/in-processing, Client shall provide (to applicable Personnel) on-site updated tuberculosis screenings, including any needed x-rays and any Client specific requirements (such as exams, immunizations, and titers), at no expense to Huffmaster. If Huffmaster can administer Client specific requirements that are in addition to Huffmaster's requirements, and Client desires that Huffmaster administers such additional requirements, Huffmaster shall charge Client for all costs incurred in connection therewith plus an additional 15% of such costs, as compensation for organizing

and administering such Client specific requirements. **Client shall provide to Huffmaster any and all documentation, including but not limited to, physicals, PPD's, chest x-rays, titers, immunizations, testing, and/or facility specific requirements administered to Personnel by Facility.** Client shall provide Personnel with Orientation that Client feels appropriate for each assignment. Orientation will be considered as hours worked by the Personnel at regular hourly bill rates and will accrue towards overtime.

5.3 Access to Books & Records. To the extent required by Sections 1861(v)(1)(I) of the Social Security Act, until the expiration of four (4) years after the furnishing of Services under this Agreement, Huffmaster shall make available upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement and such books, documents and records of Huffmaster, as are necessary to certify the nature and extent of the cost hereunder. If Huffmaster carries out any of its duties under this Agreement through a subcontract, for the value or cost of \$10,000 or more over a twelve (12) month period, with a related organization, such a subcontract shall contain a clause placing the same duty on the subcontractor as this contract places on Huffmaster.

5.4 HIPAA Obligations. Client acknowledges Huffmaster is not a business associate pursuant to HIPAA and will not provide Huffmaster, its supervisors, or local coordinators, protected health information as defined under HIPAA. Huffmaster is providing the Personnel as part of the Client's workforce, and the Client provided Orientation will identify and train all Personnel on Client's HIPAA policies and procedures. In the event the Client requires Huffmaster to execute a business associate agreement, it shall apply if, and only to the extent, Huffmaster is considered a business associate.

5.5 HIPAA Obligations for Staff. The parties understand that the Personnel, in the performance of their assigned responsibilities, may require access to identifiable protected health information for patients of Client. Huffmaster will provide healthcare professionals with basic HIPAA informational guidelines prior to assignment at the Facility. Huffmaster shall also provide to each healthcare professional the Client's confidentiality requirements relative to identifiable protected health information for patients as communicated and provided to Huffmaster by Client in advance of any assignment of a healthcare professional. Client shall be solely responsible for providing the necessary Facility specific training to healthcare professional at the time of assignment as required by HIPAA and consistent with the training provided to other members of Clients' workforce. For purposes of HIPAA compliance, all healthcare professionals assigned to the Facilities shall be considered part of Client's workforce. The parties acknowledge that although healthcare professionals supplied to Client may have access to identifiable protected health information as part of the performance of their duties, such access shall be solely under the direction and control of Client.

6. Expenses and Accommodations

6.1 Office Use. Client shall provide Huffmaster with an office with telephone and internet service for its on-site management team a minimum of three (3) days prior to deployment of Huffmaster Personnel, to be located at the place of accommodations for Personnel.

6.2 Travel Costs. Client shall be billed travel costs by air and/or ground, to and from the assignment for Personnel. This charge will be the actual cost of travel for the existing Personnel and travel for any replacement Personnel, subject to additional fees and charges detailed below.

6.2.1 Air Travel. If travel by air, Client shall pay the cost of coach airfare, baggage and travel agent service fees. Huffmaster shall book all flights as round-trip tickets to get the best possible cost savings for Client. Huffmaster may book refundable tickets if they are available and it is cost efficient. If, for any reason a change in air travel is required, Client shall be responsible for change fees.

6.2.2 Ground Travel. If travel by ground, Client shall pay mileage fees at the business rate identified by the Internal Revenue Service.

6.2.3 Non-Refundable Fees. Client shall pay the cost of any non-refundable airline or accommodation reservation fees, not to exceed \$150.00 per reservation.

6.3 Accommodation of Personnel. Client shall pay the actual cost of living accommodations, one person to a room, for all non-local personnel.

6.4 Per Diem. Client shall pay a per diem charge of \$50.00, beginning with the day of travel to the facilities and concluding with the day of travel from the facilities, for each person assigned to Client.

6.5 Administrative Charge. In addition to other fees and charges, Client shall pay a Seven Percent (7%) administrative fee computed on, and in addition to, the actual costs of travel, housing and rental vehicles, or other accommodations arranged for and paid by Huffmaster.

6.6 Licensing Fees. Client shall pay all licensing fees necessary for Personnel to perform the Services. Costs include, but are not limited to, licensing fees, overnight shipping/mailling, transcripts, license verification(s), and any other associated costs/fees.

6.7 Background Checks; Drug Screening. Upon the Client's request, Huffmaster shall require the Personnel to submit to a background check and/or a 9-panel saliva drug test prior to the Personnel performing the Services. Client shall be invoiced for the costs of all background checks and drug screens. The Client's selection of a background check or drug screen different than that suggested by Huffmaster may result in a delay in deployment and/or additional fees.

6.8 Client Services. Client shall retain professional and administrative responsibility for all Services provided by Personnel, to the extent required under applicable state and federal laws. All Personnel shall remain under the direct supervision of Client.

6.9 Transportation of Personnel. Huffmaster shall organize and provide all local transportation needed to transport the Personnel to and from the housing location to Client's jobsite. Personnel shall not be required to utilize any transportation provided by the Client and may elect to arrange their own transportation to and from the worksite. To the extent Huffmaster incurs any cost in the transportation of Personnel, Client shall be responsible for such costs plus the Huffmaster administrative fee described in Section 6.5.

6.10 Equipment. In the event Huffmaster-supplied equipment is damaged or destroyed by any third party, including any Client employees or strikers, Client shall pay the actual cost of repairing or replacing the damaged equipment.

6.11 Standards of Personnel. Huffmaster shall make all reasonable efforts to provide Personnel in accordance with the requirements of the Client as outlined in the attached schedule(s).

6.12 Supervision of Temporary Replacement Personnel. Huffmaster employees will provide administrative supervision of the Personnel. The Client shall be responsible for all workplace and work product supervision of the Personnel.

6.13 Payment of Personnel. Huffmaster shall be responsible for making payments to all Personnel, including all subcontractors under contract with Huffmaster to provide the Services to the Client, including payment of wages, federal and state income tax withholdings, social security tax withholdings, unemployment insurance, workers' compensation and other obligations imposed by federal, state and local law.

6.14 Testimony After the Term. If, after Services are concluded, Client requests Huffmaster Personnel give testimony in any type of proceeding, administrative or judicial, Client shall be obligated to pay all expenses at the Personnel's rate as set forth in this Agreement, including travel costs and other fees.

6.15 Removal of Personnel. Client shall notify Huffmaster of its request to replace any Personnel and provide written documentation of such in a timely manner for Huffmaster's future evaluation of the Personnel. Client may replace any Personnel for Cause (defined below), with written notice to Huffmaster, and not incur any additional charges. For purposes of this Agreement, "for Cause" shall be defined as the Personnel's gross negligence, gross misconduct, fraud or material failure to perform duties as required by his or her job description. Client shall be responsible for all replacement costs for any replacement Personnel in the event a replacement is terminated without cause. Client shall be billed for, and required to pay for, all Personnel hours, guarantees and expenses up until the time Huffmaster receives written notice and reason for the discharge from Client plus any additional expenses related to the replacement of the Personnel, as determined in Huffmaster's sole discretion. Huffmaster will make good faith efforts to obtain a suitable replacement of the discharged Personnel upon Client's request.

7. Insurance

7.1 Insurance Requirements. Both parties shall furnish, at their own expense, and keep in full force and effect through the term of this Agreement, the following insurance coverage:

7.1.2 Workers' Compensation Insurance: As required by the laws and regulations applicable to and covering employees of Huffmaster engaged in the performance of the Services under this Agreement.

7.1.3 Employers Liability Insurance with a limit of not less than \$250,000.00.

7.1.4 General Liability Insurance: With combined coverage aggregate limits of liability of not less than \$5,000,000.00 for bodily injury and property damage.

7.1.5 Professional Liability Insurance: If the provided Personnel are subject to professional liability requirements, the parties shall each acquire professional liability insurance for all such workers in the amount of \$1,000,000.00 per occurrence and \$3,000,000.00 aggregate.

7.2 Additional Insured. Client shall name Huffmaster as an additional insured on all insurance policies required pursuant to this Agreement.

7.3 Vehicle Insurance. If any vehicles are supplied by a rental agency for Huffmaster operations, Huffmaster may elect to obtain insurance in its sole discretion. The cost of rental, insurance and operation shall be passed through to Client. Billing may be in the form of estimated daily rates until the rental vehicles are returned, and the bill can be adjusted to the actual cost to Huffmaster. If Client contracts for the rental of vehicles or provides its vehicles for use by Huffmaster's employees or Personnel while performing their duties, Client shall be responsible for all costs of operation and shall maintain a minimum of \$1,000,000.00 liability insurance on each owned or rented vehicle.

7.4 Property Damage. Client shall defend and hold harmless Huffmaster for any property damage to rental vehicles.

7.5 Waivers of Subrogation. Client shall waive and require its insurers providing coverage by these requirements, including workers' compensation, to waive subrogation rights against Huffmaster and all other additional insured(s) for losses and damages incurred and/or paid under the insurance policies required by these requirements or other insurance applicable to Huffmaster or its subcontractors, suppliers, or other affiliated entities. If the insurance policy referred to in this Section 7 requires an endorsement to provide for continued coverage of the additional insured, the Client will cause them to be so endorsed.

8. Waivers & Indemnity

8.1 Waiver of Claims. Client waives any and all rights of recovery against Huffmaster for damages or losses incurred by Client; unless such damage or loss was caused by the negligence of the Personnel supplied by Huffmaster and is directly related to the job duties assigned by Client.

8.2 Mutual Indemnification. Each party ("Indemnifying Party") agrees to defend, indemnify and hold harmless the other party ("Indemnified Party") and its affiliates, officers, directors, shareholders, members, employees or agents from any and all liabilities, losses, damages, claims, penalties, fines, suits, judgments, costs and expenses (including reasonable attorney's fees and costs or any investigation or related action thereto) (collectively, "Claims") incurred by, or imposed or asserted against the Indemnified Party by a third party that arise from or in connection with any of the following matters: (a) errors, omissions, misconduct or negligence of the Indemnifying Party or any of the Indemnifying Party's officers, directors, members, shareholders, employees and agents, or (b) breach of the Agreement including breach or incorrectness of any representation or warranty made herein by the Indemnifying Party and/or the Indemnifying Party's failure to comply with any applicable Laws. The Indemnified Party shall provide the Indemnifying Party with written notice within ten (10) days of learning of any Claims or complaints that may reasonably result in the indemnification of the Indemnified Party, provided, however, that failure by the Indemnified Party to provide notice to the Indemnifying Party shall not relieve the Indemnifying Party of its obligations under this Section. The Indemnified Party will permit the Indemnifying Party to control the defense and settlement of the Claim, provided the Indemnifying Party may not choose an attorney(s) nor settle the claim without the Indemnified Party's prior written consent (which will not be unreasonably withheld). The Indemnified Party may (at its own cost) engage its own counsel to participate in the defense and settlement of the claim.

8.3 Disclaimer of Guarantee. Huffmaster is not an insurer and although the purpose of this Agreement is to provide the Personnel in an attempt to avoid or minimize certain risks of loss by Client; there is no guarantee by Huffmaster, implied or otherwise, that losses to Client will be avoided.

9. Limitation of Liability

9.1 No Consequential Damages. Neither party will be liable to the other for consequential, incidental, indirect, punitive, or special damages (including loss of data, revenue, or profits) except to the extent any of the above are recoverable as direct damages arising from or relating to this agreement, even if the parties have been apprised of the possibility of such damages occurring.

9.2 Liability Cap. Huffmaster's total liability to the client under or arising out of this agreement shall be limited to the greater of the aggregate amounts paid or due and owing by client to Huffmaster or the amount covered by insurance.

9.3 Limitations. The foregoing limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.

9.4 Safety Act. Notwithstanding anything to the contrary in this agreement, to the extent Huffmaster's liability is limited pursuant to the safety act, or other applicable law, such limitation shall have full force and effect.

10. Independent Contractor

The parties are independent contractors. This Agreement does not create an employment relationship, partnership or joint venture between the parties or any of their employees, agents or subcontractors. Huffmaster shall be solely responsible for payment of all wages, insurance, taxes, licenses, fees and withholdings due to, or with respect to, its officers, directors, employees, agents and subcontractors. Client is not the employer of and shall have no direct employer related liability to or with respect to, Personnel hired or retained by Huffmaster pursuant to this Agreement.

11. Client Responsibilities

11.1 Notification Requirements. Client shall timely notify Huffmaster of staffing needs and any changes that occur.

11.2 Legal Compliance. Client shall comply with all federal, state and local laws, rules, statutes, enactments, orders and regulations, including those of any governmental agency, and all interpretations of and changes, supplements or replacements to any of the foregoing (collectively, "Laws"). Violations of such Laws, including the engaging in unfair, deceptive, or abusive acts or practices may, in Huffmaster's sole discretion, be cause for immediate termination of this Agreement. Client shall promptly notify, in writing, Huffmaster of any material violations of Law alleged or determined to exist by any governmental or regulatory agency, court, or any other entity against Huffmaster or involving Huffmaster's practices, policies, or services. Client also agrees to abide by any state specific Addendum attached hereto.

11.3 Reports to Huffmaster. Client agrees to immediately report to the Huffmaster signatory any incident involving a risk to patient safety, quality of care or a security incident involving property damage, where Huffmaster's employees or Personnel are involved. This includes errors, injuries and safety hazards, as defined by Joint Commission standards, for Sentinel Events both reportable and not reportable. Client also agrees to immediately notify the Huffmaster signatory, of any incident involving the occurrence of, or any risk of, property damage, injury, and any event which may result in a claim,

including for disability insurance or worker's compensation, whenever Huffmaster's employees or the Personnel are involved. As applicable, Huffmaster and Client will cooperate with each other to conduct an investigation of the employee/Personnel's role in the incident, identifying possible causes and actions that can be taken by each party in the future to prevent recurrence.

11.4 Worker's Compensation. Client agrees to notify Huffmaster, by both telephone and e-mail, within twenty-four (24) hours of learning of a possible Workers' Compensation injury and will provide all corresponding reports to Huffmaster within seven (7) days of the injury.

11.5 Non-Solicitation of Personnel. During the Term of this Agreement and for a period of one (1) year following the termination or expiration hereof, Client will not solicit, interview, hire, or discuss employment prospects with any officer or employee of Huffmaster without its prior written approval.

11.6 Personal Protection Equipment (PPE). Client shall be responsible for providing all required Personal Protective Equipment (PPE) to Personnel listed in the attached schedule(s) as required by law, CDC or OSHA guidance or industry standards. Client's failure to provide the necessary PPE shall be deemed a breach of this Agreement under which Huffmaster may immediately terminate this Agreement.

12. Miscellaneous

12.1 Force Majeure. Neither party shall be liable for any failure to perform its obligations under this Agreement, where such failure is caused by any occurrence, event or other matter, which is beyond the control of such party, including, without limitation, court order, order of Federal, State or Local government, acts of God, failures or delays in transportation, explosions, sabotage, accidents, riots, civil commotions, acts of war and other similar causes.

12.2 Assignment. Neither party may assign or delegate this Agreement or any of its rights or duties hereunder, directly, indirectly, by operation of law or otherwise, without the written consent of the other, and any such purported assignment or delegation shall be void. Notwithstanding the foregoing, Huffmaster may assign this Agreement or any rights thereunder, to any parents, subsidiaries, divisions, or affiliate entities, or in connection with the sale or other transfer of substantially all of Huffmaster's equity or assets to which this Agreement relates.

12.3 Waiver and Amendment. No modification, amendment or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party to be charged. No failure or delay by either party in exercising any right, power, or remedy under this Agreement shall operate as a waiver of any such right, power or remedy.

12.4 Arbitration. Except as otherwise provided in this Agreement, any dispute or controversy arising under, out of, in connection with, or in relation to this Agreement, any amendment hereof, or the breach hereof, shall be determined and settled by arbitration in Southfield, Michigan, in accordance with the Commercial Arbitration Rules of the American Arbitration Association through a single arbitrator. If the parties cannot agree to a single arbitrator, the parties shall each select an arbitrator that will work together to select the single arbitrator. Any award rendered therein shall be final and binding on the parties, and judgment may be entered thereon in any court having jurisdiction thereof. The costs of the arbitrator shall be split equally between the parties.

12.5 Choice of Law & Venue. The construction, interpretation, and performance of this Agreement and all transactions under it will be governed by the laws of the state the Services will be performed in, excluding its choice of law rules. Any dispute or controversy arising out of or related to this Agreement or any breach hereof, or the termination of this Agreement, must be brought in the State or Federal Courts of a state a party is headquartered or domiciled. The parties waive the right to trial by jury in any proceeding. In the event of any dispute under this Agreement, the prevailing party shall be entitled to recover all its costs and expenses, including attorney's fees and costs to collect these costs.

12.6 Integration and Modification. This Agreement, and any other document incorporated herein by reference, may not be modified or altered unless any such modification or alteration is signed by each of the parties hereto. In the event of a conflict between this Agreement and any incorporated Schedule, SOW, or Addendum, the Schedule, SOW, or Addendum shall control.

13. Contagion Outbreak Responsibilities

Should a Huffmaster staff member be quarantined while deployed at a Client facility, Client will assume the costs for a quarantine which consists of lodging, per diem, 40 hours per week wages for up to 14-days, not to exceed the amount of \$9,000 per person. During any Contagion Outbreak, to be eligible for such support individuals must comply with all regulations, national, state, local, or Company including but not limited to the following: wearing masks in all public places including restaurants at all times except while sitting and eating, maintaining social distancing as defined by a minimum of 6 feet in public places, limiting exposure to the public including restricting exposure to contagion by limiting attendance to high risk areas such as bars, events or other as defined by the local health authority (including staying home while completing 'essential worker' tasks and functions).

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and date shown below.

COUNTY OF MONTEREY, on behalf of
NATIVIDAD MEDICAL CENTER

HUFFMASTER CRISIS RESPONSE, INC.


BY:  Andrea J. Rosenberg, Assistant Administrator, Operations & Support Services
for Charles R. Harris, M.D., Interim CEO, TITLE: Natividad Medical Center

BY:  Scott Cassidy
TITLE: Senior Director

DATE: 8/20/2021 | 4:35 PM PDT

DATE: 8/20/2021


Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel

By:  Leslie J. Girard
Date: 8/20/2021 | 3:36 PM PDT

Approved as to Fiscal Provisions

By: _____
Date: _____

Approved as to Liability Provisions
Office of the County Counsel-Risk Manager
Leslie J. Girard, County Counsel-Risk Manager

By:  Leslie J. Girard
Date: 8/20/2021 | 4:11 PM PDT

SCHEDULE A
TEMPORARY REPLACEMENT STAFFING

Huffmaster shall schedule and have available for assignment the following Personnel:

<u>Allied & Service Personnel</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>
7 OR Tech	\$83.88 per hour	\$125.82 per hour	\$167.76 per hour

All Temporary Replacement personnel will be billed at an overtime rate of 1.5 times the quoted hourly rate for hours worked in excess of eight (8) hours per day. All Temporary Replacement personnel and Administrative Personnel will be billed at an overtime rate of 2.0 times the quoted hourly rate for hours worked in excess of twelve (12) hours per day and all hours worked on the seventh consecutive day.

Equipment: Huffmaster will require the following equipment to be used while performing Services under this Agreement:

(7) Cars, billed at vehicle rental rate plus the cost of operation.

Client must issue verbal instructions to deploy the Personnel by 1200-hours (Noon) on _____ (**notification date**), to Craig Cassady (248) 202-5735 (Cell) or Huffmaster (800) 446-1515 so as to enable personnel to arrive at a local hotel on _____ prepared to move on site on _____ or as quickly as possible, based on notification by Client to mobilize Personnel.

Verbal instructions must be accompanied by written instructions to deploy Personnel, delivered via fax to (248) 597-7055 or e-mail to cassady@huffmaster.com.

The following terms and conditions apply to any employee of Huffmaster assigned to Client pursuant to this Agreement ("Personnel").

1. HUFFMASTER REPORTING REQUIREMENT FOR MEMBERS OF PUBLIC EMPLOYEE RETIREMENT SYSTEM (PERS); INDEMNIFICATION

- 1.1 Client participates in the California Public Employee Retirement System ("CalPERS"). As such, Huffmaster and Client must be mindful of restrictions on the employment of persons who are not participating in CalPERS, as well as those persons who are retirees under CalPERS (hereinafter, "PERS annuitant").
- 1.2 Huffmaster shall identify in writing to Client any Personnel with prior PERS affiliation who is sent to report for Client service under the Agreement, at least two (2) business days prior to the individual being assigned by Huffmaster for service to Client.
- 1.3 Huffmaster shall identify in writing to Client any PERS annuitant who is sent to report for Client service under the Agreement, at least two (2) business days prior to the individual being assigned by Huffmaster for service to County.
- 1.4 The term "identify" is defined for purposes of this section to include both (1) the Personnel's name and (2) the last four digits of Personnel's Social Security Number.
- 1.5 The term "PERS affiliation" is defined for purposes of this section to mean the Personnel had previously worked for a governmental entity that participates or participated in CalPERS.

1.6 The term "PERS annuitant" is defined for purposes of this section as a person who has retired from a CalPERS agency and who is receiving a retirement allowance from CalPERS.

1.7 Should Huffmaster fail to properly identify a PERS annuitant or a Personnel with prior PERS affiliation, Huffmaster shall be held responsible for any costs assessed, or eligible to be assessed, by CalPERS relating to the assignment to Client of such individual.

1.8 Subject to any applicable limitations of law, at Huffmaster's expense as described herein, Huffmaster agrees to indemnify, defend and hold harmless the County of Monterey from and against any and all liability, loss, costs or obligations (including, without limitation, interest, penalties and attorney's fees in defending against the same) against the County of Monterey, its employees, or its purported agents or independent contractors as a result of any finding, order, judgment or other ruling that any of Personnel is a retired annuitant or common law employee for periods during which services were performed under this Agreement.

2. PERSONNEL ARE EMPLOYEES SOLELY OF HUFFMASTER; EMPLOYMENT RELATED CLAIMS; INDEMNIFICATION

2.1 Nothing in this Agreement shall create an employer and employee relationship between Personnel and Client. At all times, the Personnel shall remain an employee of Huffmaster. Huffmaster agrees to be solely responsible for all matters relating to compensation of its employees, subcontractors, agents, partners or consultants including but not limited to compliance with federal and state and local wage and hours laws, laws governing workers' compensation, Social Security, lay-off or termination compensation, withholding and payment of any and all federal, state and local personal income taxes, disability/death insurance, unemployment, and any other taxes for such persons, including any related employer assessments or contributions required by law, and all other regulations governing such matters, and the payment of all salary, vacation and other employee benefits. Huffmaster shall cover Personnel assigned to Client under Huffmaster's own workers compensation policy throughout the term of this Agreement.

2.2 At Huffmaster's expense as described herein, Huffmaster agrees to defend, indemnify, and hold harmless the County of Monterey, its officers, agents, employees, members, subsidiaries, parent, affiliates, and successors in interest from and against any claim, demand, action, proceeding, threatened or actual, judgment, liability, loss, damage, cost, or expense, including, without limitation, attorneys' fees as provided herein arising out of Huffmaster's or Client's alleged failure to pay, when due, all such compensation, premiums, taxes and obligations and including any claim of whatever nature brought by any employee of Huffmaster or any applicant of Huffmaster for employment, arising out of the hiring, or failure to hire the employee/applicant, or arising out of any aspect of his/her employment by Huffmaster and the termination thereof (collectively referred to for purposes of this Section as "Employment Claim(s)"). Huffmaster shall pay to Client any expenses or charges relating to or arising from any such Employment Claim(s) as they are incurred by Client.

3. TEMPORARY EMPLOYEES

- 3.1 Huffmaster shall be responsible for tracking cumulative hours per Personnel for all assignments with Client.
- 3.2 Huffmaster shall notify Client when an individual Personnel's hours working for Client are approaching 650 hours in a fiscal year (7/1-6/30).
- 3.3 Subject to any State of California exemptions in place to ensure adequate staffing during the COVID-19 pandemic, Client shall not pay Huffmaster for services rendered beyond 720 hours per fiscal year.

COUNTY OF MONTEREY, on behalf of
NATIVIDAD MEDICAL CENTER

HUFFMASTER CRISIS RESPONSE, INC.

BY: DocuSigned by: Andrea J. Rosenberg, Assistant Administrator, Operations & Support Services Scott Cassady
69FE6075156B14D
 for Charles R. Harris, M.D., Interim CEO, TITLE: Senior Director
 TITLE: Natividad Medical Center
 DATE: 8/20/2021 | 4:35 PM PDT DATE: 8/20/2021



Monterey County

Item No.27

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-503

September 27, 2022

Introduced: 9/9/2022

Current Status: Natividad Medical Center -
Consent

Version: 1

Matter Type: BoS Agreement

- a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute a Hospital Participation Agreement ("Agreement") with American College of Surgeons (ACS) for participation in the National Surgical Quality Improvement Program ("ACS NSQIP"), for the term of October 1, 2022 through September 30, 2023, and for a total agreement amount of \$14,000.
- b. Approve the NMC Chief Executive Officer's recommendation to accept non-standard indemnification, insurance, no warranty, limitations on liability, and governing laws within the agreement.

RECOMMENDATION:

It is recommended the Board of Supervisors:

- a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute a Hospital Participation Agreement ("Agreement") with American College of Surgeons (ACS) for participation in the National Surgical Quality Improvement Program ("ACS NSQIP"), for the term of October 1, 2022 through September 30, 2023, and for a total agreement amount of \$14,000.
- b. Approve the NMC Chief Executive Officer's recommendation to accept non-standard indemnification, insurance, no warranty, limitations on liability, and governing laws within the agreement.

SUMMARY/DISCUSSION:

The American College of Surgeons National Surgical Quality Improvement Program (ACS NSQIP®) is a database and reporting system that provides Natividad Medical Center (NMC) with fact-based information needed to make quick, confident decisions in support of the hospital's quality improvement initiatives. The database and reporting system allow NMC to: evaluate performance as compared to peer hospitals; and evaluate outcomes, complications, and risk-adjusted mortality. The database and reporting system allow NMC to compare patient-care patterns among physicians and compare expected results to observed results. Participation in ACS NSQIP® satisfies the Centers for Medicare and Medicaid Services (CMS) surgical quality measure requirement (NQF #0493), "Participation in a Systematic Clinical Database Registry for General Surgery."

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel previously reviewed and approved this agreement and has reviewed and approved this agreement as to form. The Auditor-Controller has approved as to payment provisions. This agreement has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on September 9, 2022.

FINANCING:

The cost for this agreement was \$14,000 all of which was included in the Fiscal Year 2022-23 Adopted Budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

ACS NSQIP is the leading nationally validated, risk-adjusted, outcomes-based program to measure and improve the quality of surgical care in the private and public sector. ACS NSQIP provides participating hospitals with tools, analyses, and reports to make informed decisions about improving quality of care. Further, peer-reviewed studies have shown that ACS NSQIP is effective in improving the quality of surgical care while also reducing complications and costs.

- ☐ Economic Development
- ☐ Administration
- ☒ Health and Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Wally Sayles, Director of Surgical Services, 772-7771

Approved by: Charles R. Harris, Chief Executive Officer, 783-2504

Attachments:

American College of Surgeons Hospital Participation Agreement NSQIP

Attachments on file with the Clerk of the Board



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers

168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-503

September 27, 2022

Introduced: 9/9/2022

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute a Hospital Participation Agreement ("Agreement") with American College of Surgeons (ACS) for participation in the National Surgical Quality Improvement Program ("ACS NSQIP"), for the term of October 1, 2022 through September 30, 2023, and for a total agreement amount of \$14,000.
- b. Approve the NMC Chief Executive Officer's recommendation to accept non-standard indemnification, insurance, no warranty, limitations on liability, and governing laws within the agreement.

RECOMMENDATION:

It is recommended the Board of Supervisors:

- a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute a Hospital Participation Agreement ("Agreement") with American College of Surgeons (ACS) for participation in the National Surgical Quality Improvement Program ("ACS NSQIP"), for the term of October 1, 2022 through September 30, 2023, and for a total agreement amount of \$14,000.
- b. Approve the NMC Chief Executive Officer's recommendation to accept non-standard indemnification, insurance, no warranty, limitations on liability, and governing laws within the agreement.

SUMMARY/DISCUSSION:

The American College of Surgeons National Surgical Quality Improvement Program (ACS NSQIP®) is a database and reporting system that provides Natividad Medical Center (NMC) with fact-based information needed to make quick, confident decisions in support of the hospital's quality improvement initiatives. The database and reporting system allow NMC to: evaluate performance as compared to peer hospitals; and evaluate outcomes, complications, and risk-adjusted mortality. The database and reporting system allow NMC to compare patient-care patterns among physicians and compare expected results to observed results. Participation in ACS NSQIP® satisfies the Centers for Medicare and Medicaid Services (CMS) surgical quality measure requirement (NQF #0493), "Participation in a Systematic Clinical Database Registry for General Surgery."

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel previously reviewed and approved this agreement and has reviewed

and approved this agreement as to form. The Auditor-Controller has approved as to payment provisions. This agreement has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on September 9, 2022.

FINANCING:

The cost for this agreement was \$14,000 all of which was included in the Fiscal Year 2022-23 Adopted Budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

ACS NSQIP is the leading nationally validated, risk-adjusted, outcomes-based program to measure and improve the quality of surgical care in the private and public sector. ACS NSQIP provides participating hospitals with tools, analyses, and reports to make informed decisions about improving quality of care. Further, peer-reviewed studies have shown that ACS NSQIP is effective in improving the quality of surgical care while also reducing complications and costs.

- ☐ Economic Development
- ☐ Administration
- ☒ Health and Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Wally Sayles, Director of Surgical Services, 772-7771

Approved by: Charles R. Harris, Chief Executive Officer, 783-2504

Attachments:

American College of Surgeons Hospital Participation Agreement NSQIP

Attachments on file with the Clerk of the Board

Charles R Harris

Charles R. Harris, M.D., Chief Executive Officer

09/21/2022

Date

HOSPITAL PARTICIPATION AGREEMENT

NAME OF HOSPITAL: County of Monterey for the provision of services for Natividad Medical Center
HOSPITAL FEIN/TAX ID: 94-6000524
HOSPITAL ADDRESS: 1441 Constitution Blvd.
CITY, STATE ZIP: Salinas, CA 93906

THIS HOSPITAL PARTICIPATION AGREEMENT (“Agreement”) is between the hospital identified above (“Hospital”) and the American College of Surgeons (“ACS”).

WHEREAS, Hospital desires to participate in the ACS National Surgical Quality Improvement Program® (“ACS NSQIP”®) and ACS desires to receive data from Hospital for inclusion in the ACS NSQIP; and

WHEREAS, as an ACS NSQIP participating hospital, Hospital is also eligible to participate in the ACS Quality Verification Program for ACS NSQIP Hospitals (“ACS NSQIP QVP”) that is a part of this Agreement; and

WHEREAS, the parties desire to enter into this Agreement based upon the terms and conditions shown below.

NOW, Therefore, in consideration of the foregoing, Hospital and ACS agree as follows:

1. **Term.** The term of this Agreement is October 1, 2022 through September 30, 2027 unless sooner terminated pursuant to Section 18 of this Agreement below (the “Term”).

2. **Contribution of Data.** a) **NSQIP Registry.** Hospital agrees to contribute certain data (the “ACS NSQIP Data”) to a proprietary database established by ACS (the “NSQIP Registry”). Hospital must submit its ACS NSQIP Data in accordance with the data reliability standards established by ACS NSQIP. Hospital agrees to contribute a set number of cases based on the minimum ACS NSQIP Data contribution requirements for Hospital’s participation in the ACS NSQIP as established by ACS. Hospital will submit data in the format as required by ACS via the official ACS NSQIP web-based data collection system on the ACS Quality Data Platform (“QDP”) with standardized fields as developed by ACS and/or ACS authorized vendor(s). Hospital agrees to use an ACS authorized vendor and ACS will not be required to accept data from any other vendor. Hospital shall retain ownership of the data it submits to the ACS NSQIP Registry and, subject to the terms and conditions set forth herein, hereby grants to ACS a non-exclusive, perpetual, irrevocable license to utilize the ACS NSQIP Data contributed to the ACS NSQIP Database by Hospital and to share such ACS NSQIP Data with other ACS NSQIP participants for purposes of quality improvement/benchmarking in the area of health care, or for related research purposes in the area of health care as further described in the Business Associate and Data Use Agreement (“BA/DUA”).

b) **ACS NSQIP QVP.** Hospital may apply for status as an ACS NSQIP QVP Verified Hospital at any time during the Term. At that time Hospital further agrees to submit to ACS the data necessary for ACS to evaluate whether Hospital meets the Standards as described in the data requirements included in the ACS NSQIP QVP materials available through Hospital’s account, and as further described in this Agreement.

3. **BA/DUA.** Hospital and ACS agree that the attached Business Associate and Data Use Agreement (BA/DUA) executed in 2016 is still binding and associated with this Agreement. The parties acknowledge and agree that any provision or exchange of data by or between Hospital and ACS is conditioned upon the terms of this Agreement and the BA/DUA. Hospital further acknowledges that ACS will treat any protected health information (“PHI”) it receives from Hospital in accordance with the terms of the BA/DUA.

4. **Hospital Participation Requirements.** a) **ACS NSQIP Participation.** Hospital will continuously comply with the ACS NSQIP participation requirements described in this Agreement and as set forth at: <https://www.facs.org/quality-programs/acs-nsqip/about/joinnow/participation>. The ACS NSQIP participation requirements are subject to change from time to time.

b) **ACS NSQIP QVP Participation.** If Hospital has enrolled in the ACS NSQIP QVP, i) Hospital agrees to complete an application and a pre-review questionnaire (“PRQ”), and participate in a site visit including chart review

(“Site Visit”). and ii) Hospital will continuously comply with the ACS NSQIP QVP participation requirements described in this Agreement. A description of the ACS NSQIP QVP can be found at: <https://www.facs.org/quality-programs/acs-nsqip/about-nsqip-qvp>. ACS will provide Hospital with the Standards. A complete listing and description of the Standards can be accessed at: <https://www.facs.org/quality-programs/quality-verification/program-standards>. Upon seeking verification, Hospital warrants that it either will then meet, or at that time is using and will use its best efforts to work toward meeting, the Standards in effect as of the Effective Date of this Agreement or enrollment date to be an ACS NSQIP QVP-Focused Verified Hospital.

c) **Changes to Standards.** The Standards are subject to change from time to time. ACS will notify Hospital of any such changes by email to Hospital’s primary contact. Hospital is required to be in compliance with the revised Standards within six (6) months from the date that ACS provides notice of such changes to the Standards (the “Deadline”). Hospital shall notify ACS in writing in the event that Hospital is unable to comply with the revised Standards by the Deadline.

5. **ACS NSQIP QVP Hospital Evaluation and Verification.** If Hospital is participating in the ACS NSQIP QVP, ACS will schedule a Site Visit at a mutually agreeable time after ACS’s acceptance of the PRQ and related ACS NSQIP QVP verification materials. Following the Site Visit, ACS will evaluate whether Hospital meets the Standards for designation as an ACS NSQIP QVP Verified Hospital. ACS will submit to Hospital a confidential summary report of its findings and potential opportunities for Hospital’s quality improvement efforts and activities. If Hospital is verified, then Hospital will be designated as an ACS NSQIP QVP Verified Hospital and listed as such on ACS’s website. The ACS NSQIP QVP verification cycle is approximately three (3) years, as long as Hospital is a program participant. If ACS determines that Hospital does not meet the Standards, ACS will provide Hospital a list of deficiencies. Hospital may correct the deficiencies which are correctable within a prescribed period of time set by ACS and provide ACS with evidence of such correction. ACS may require additional Site Visit(s) to determine whether Hospital has corrected such deficiencies as necessary to meet the Standards. If ACS determines that such additional Site Visit(s) are required in its sole reasonable discretion then Hospital agrees to pay any required additional Site Visit fees. If Hospital corrects the deficiencies within the prescribed timeframe, ACS shall grant verification of Hospital. If ACS denies verification, Hospital may appeal, under ACS procedures, and the decision of ACS regarding such appeal by Hospital shall be final. If Hospital is denied verification by ACS it may reapply within six (6) months of the date of such denial. Hospital agrees to pay additional Site Visit fees related to Hospital’s reapplication for verification.

6. **ACS NSQIP and QVP Services Provided to Hospital.** ACS will provide Hospital the ACS NSQIP services described on <https://www.facs.org/quality-programs/acs-nsqip/about/joinnow/services>, and if Hospital participates in the ACS NSQIP QVP-Focused, ACS will provide Hospital the Focused services as described at: <https://www.facs.org/quality-programs/acs-nsqip/about-nsqip-qvp>.

7. **Fees.** In exchange for the services ACS provides to Hospital related to its participation in the ACS NSQIP Registry and access to and/or participation in the NSQIP QVP Focused, Hospital agrees to pay to ACS an annual participation fee as described on <https://www.facs.org/quality-programs/acs-nsqip/about/joinnow/program-fees> (the “Annual Fee”) (Note: pricing for the NSQIP and NSQIP QVP Focused does not change based upon actual participation and/or verification through the NSQIP QVP Focused program). ACS may adjust the Annual Fee from time to time and will provide Hospital at least sixty (60) days’ advance notice of any such adjustment. Hospital further agrees to pay any additional fees in connection with Site Visit(s) (as described in Section 5), Data Collectors (as described in Section 11), and Audits (as described in Section 14).

8. **Payment.** ACS will invoice Hospital for the initial Annual Fee at the time Hospital submits a signed copy of this Agreement to ACS for countersignature. Thereafter, ACS will invoice Hospital sixty (60) days before each anniversary of the Effective Date unless Hospital does not wish to continue participation in the ACS NSQIP. Payment of the Annual Fee shall be due in full upon Hospital’s receipt of the invoice.

9. **Access to and License Use of ACS NSQIP Data.** Hospital will have continuous access to Hospital’s own ACS NSQIP Data. Hospital will also have continuous access to cumulative, non-risk-adjusted ACS NSQIP Data contributed by all ACS NSQIP participants, in a manner that does not identify or permit identification of the ACS NSQIP participant-contributor(s), and presented for the purpose of comparison to national averages and peer groups. Notwithstanding the ownership rights of each ACS NSQIP participant-contributor to the data they individually submit to the ACS NSQIP Registry, ACS owns all right, title, and interest in the ACS NSQIP Registry and the aggregated data contained therein. ACS hereby grants to Hospital a limited, non-exclusive, revocable license to utilize the cumulative, non-risk-adjusted

ACS NSQIP Data for internal purposes only. ACS will provide reports to Hospital from time to time, which will contain risk-adjusted ACS NSQIP Data. ACS hereby grants to Hospital a limited, non-exclusive, revocable license to use such risk-adjusted ACS NSQIP Data for internal and external purposes.

10. **Confidentiality of Hospital's Identity.** ACS will not release Hospital's ACS NSQIP Data in any form or format that identifies Hospital or its medical or professional staff or employees, or any of them, as the contributor(s) of Hospital's specific ACS NSQIP Data, except: to Hospital, as required by legal process, or as specifically authorized by Hospital. If any legal demand for Hospital's ACS NSQIP Data is made upon ACS, ACS will promptly notify Hospital so that Hospital may, at its option, challenge the validity of such demand. The provisions of this Section shall survive any termination or expiration of this Agreement.

11. **Data Collectors.** Hospital acknowledges that it must ensure adequate staffing for high-quality data collection and analysis and agrees to dedicate the required number of data collectors as determined by Hospital's surgical volume to submit ACS NSQIP Data to the NSQIP Registry, including a qualified, dedicated Surgical Clinical Reviewer ("SCR"). A description of SCR training and resources is available at: <https://www.facs.org/quality-programs/acs-nsqip/about/joinnow/services>.

12. **Reporting of Hospital Changes.** Hospital agrees to immediately notify ACS of any changes to Hospital's operations including changes in personnel, physical environment, procedure, equipment, administration, or any other circumstance, which results in Hospital no longer meeting the requirements for approval as an ACS NSQIP QVP Verified Hospital.

13. **Access to NSQIP Registry on the ACS QDP** Hospital acknowledges and agrees that it is at all times responsible for controlling access to Hospital's own data and Hospital's account ("ACS NSQIP Participant Portal"), as well as access to the NSQIP Registry on the ACS QDP. Hospital is solely responsible for designating the persons authorized to access the ACS NSQIP Participant Portal and/or the NSQIP Registry and the scope of each Authorized User's permissible access and use for or on behalf of Hospital (collectively the "Authorized Users") Hospital agrees to maintain in the ACS NSQIP Participant Portal an up-to-date list of its current authorized users with a need to access the NSQIP Registry on the ACS QDP and to promptly update its list of authorized users in the ACS NSQIP Participant Portal to account for any additions and/or deletions of authorized users. Hospital is responsible for maintaining the security of, and for all activities occurring under, the login credentials of each Authorized User, and for verifying any and all information or data transmitted, stored or received by the Authorized Users in accessing the NSQIP Registry.

14. **Audits.** In order to monitor the quality of the data entered into the NSQIP Registry, Hospital acknowledges that ACS or its agents will conduct regular inter-rater reliability audits of Hospital's data and collection procedures in relation to the ACS NSQIP Data Hospital contributes to the NSQIP Registry ("Audits"). ACS will provide Hospital at least ten (10) business days' prior notice of any such Audits and Hospital agrees to participate in, and cooperate with ACS in its conduct of, such Audits during the Term. To the extent medical records are required to conduct the Audits, the parties acknowledge and agree that ACS will request from Hospital, and Hospital will provide to ACS, only the minimum necessary information from the medical record that is required to complete the Audits. Hospital acknowledges and agrees that additional Audits may be required by ACS and/or requested by Hospital from time to time during the Term. If ACS determines, in its sole reasonable discretion, that additional Audit(s) is/are necessary, and/or if Hospital requests that ACS conduct additional Audit(s) then Hospital further agrees to pay to ACS an additional fee of Three Thousand Five Hundred Dollars (\$3,500) per such Audit.

15. **Hospital's Confidential Business Information.** ACS will take reasonable steps to protect the confidentiality of non-patient information concerning Hospital that it receives or generates in connection with this Agreement and that Hospital designates as confidential. ACS will use such information solely to carry out this Agreement and will not disclose such information without Hospital's prior written approval or as required by law. Notwithstanding the foregoing, ACS may disclose the names and contact information of Hospital's Surgeon Champion and Surgical Clinical Reviewers to other ACS NSQIP participants. The provisions of this Section shall survive any termination of this Agreement.

16. **Use of Name.** a) Neither ACS nor Hospital shall use the name or logo of the other party or of any of its affiliates, or any variation or acronym thereof, without the prior written consent of the other party, except that ACS may include the name of Hospital in lists of ACS NSQIP participants, and Hospital may state that Hospital participates in the ACS NSQIP.

b. If Hospital is an ACS NSQIP QVP-Focused Verified Hospital, and for so long as Hospital is a program participant in the ACS NSQIP QVP-Focused i) Hospital grants to ACS a limited license to use the name of Hospital to

identify Hospital as an ACS NSQIP QVP-Focused Verified Hospital, and Hospital acknowledges and specifically agrees that ACS may utilize the name of Hospital for such purposes in any medium, including any list(s) setting forth or otherwise identifying Hospital as an ACS NSQIP QVP-Focused Verified Hospital on ACS's website and in other media; and ii) ACS grants a limited revocable license to Hospital to use the designation "ACS NSQIP QVP-Focused Verified Hospital."

17. **Ongoing Participation in Special Projects/Programs** Hospital and ACS each hereby acknowledge, agree, and affirm that if Hospital participates in/will participate in special projects or programs, that supplement, are ancillary to, or otherwise related in any way to Hospital's participation in the ACS NSQIP (for example, NSQIP Collaboratives, NSQIP Quality in Training Initiative and the Hospital Compare project) including those in place prior to the date of this Agreement, those projects and programs continue to be/will be governed by any applicable documentation, addenda or amendments specific to those projects or programs, as well as incorporated into this Agreement.

18. **Termination**. Hospital may terminate this Agreement at any time during the Term. ACS may terminate this Agreement at any time during the Term upon thirty (30) days prior written notice to Hospital if Hospital materially fails to fulfill the terms of this Agreement or materially violates any of the conditions set forth herein. In addition, ACS may immediately terminate Hospital's participation in the ACS NSQIP QVP if Hospital practices may endanger patient safety as determined in ACS's sole reasonable discretion. ACS shall give notice to Hospital of its intent to terminate this Agreement and/or program for such causes, and Hospital shall have fifteen (15) days from the date of such notice to appeal, under ACS procedures, and the decision of ACS regarding such appeal by Hospital shall be final. Notwithstanding any term to the contrary herein, this Agreement shall automatically terminate upon the termination of the BA/DUA. In the event of any termination of this Agreement by ACS for the causes set forth hereinabove or as a result of the termination of the BA/DUA, Hospital shall not be entitled to the appeal rights set forth above or to any refund of the Annual Fee paid by Hospital to ACS hereunder. ACS may also terminate this Agreement in the event that ACS suspends data collection under the ACS NSQIP, in which case ACS will refund to Hospital the pro-rata portion of the Annual Fee paid by Hospital for the unfulfilled portion of the Term. No refund of any other fee(s) paid by Hospital to ACS hereunder is/are due on termination of this Agreement for any reason whatsoever.

19. **Effect of Termination on Provision of Data to ACS**. The parties acknowledge and agree that the provision of any PHI to ACS pursuant to this Agreement is conditioned upon this Agreement and the BA/DUA being in full force and effect. Therefore, upon termination of this Agreement or the BA/DUA, the parties agree that Hospital will refrain from submitting PHI to ACS, and ACS will refrain from accepting PHI from Hospital.

20. **Force Majeure**. Neither party shall be liable for failure to meet any requirements of this Agreement, and this Agreement may not be terminated for such cause, if such failure is due to electrical outage, strike, natural disaster or other event beyond the control of the party, which makes performance impossible or impractical

21. **Disclaimer of Warranty, Limitation of Liability, and Indemnification**

a) **No Warranty as to Materials and/or Services; disclaimer**. To the maximum extent permitted by applicable law, the ACS NSQIP Registry, and the materials and/or services provided by ACS hereunder ("ACS NSQIP Materials") are provided "as is" with all faults, and ACS disclaims any and all express or implied representations and warranties with respect to the ACS NSQIP Materials, including any express or implied warranty of merchantability, fitness for a particular purpose, accuracy, non-infringement, or that the ACS NSQIP materials will operate error free, uninterrupted or be free of viruses. The entire risk as to selection, quality, performance, and use of, and satisfaction with, ACS NSQIP Materials shall be with Hospital. The parties agree that the ACS NSQIP QVP is meant to improve the quality of care for Hospital's patients. Participation in the ACS NSQIP QVP does not guarantee or warrant the quality of patient services provided at Hospital. Notwithstanding any provision herein to the contrary, neither party shall be liable for indirect, special, incidental, consequential or exemplary damages (including damages related to loss of business revenue or profits or any use or inability to use the ACS NSQIP Materials) under any legal theory, even if a party has been advised of the possibility of such damages.

b) **Indemnification by Hospital**. Hospital agrees to indemnify, defend and hold harmless ACS, its employees, officers, directors, volunteers, successors and assigns from and against any liability, damages, costs (including attorney's fees), penalties, expenses of any kind, judgments, settlements, or claims arising from Hospital's participation in the ACS NSQIP and/or ACS NSQIP QVP.

c) **Indemnification by ACS.** Except for any liability, damages, costs (including attorney's fees), penalties, expenses of any kind, judgments, settlements or claims related to the care provided to a patient or as limited or disclaimed in this Agreement, ACS agrees to indemnify, defend, and hold harmless Hospital, its employees, officers, directors, volunteers, successors and assigns from and against any liability, damages, costs (including attorney's fees), penalties, expenses of any kind, judgments, settlements or claims arising from ACS's material breach of its obligations under this Agreement. EXCEPT AS PROVIDED IN THE BA/DUA, AND TO THE EXTENT PERMITTED BY LAW, THE PARTIES AGREE THAT IN NO EVENT SHALL ACS BE LIABLE FOR ANY THIRD-PARTY CLAIM, INCLUDING ANY LIABILITY FOR DAMAGES OR COSTS RELATED TO THE CARE PROVIDED TO ANY PATIENT BY HOSPITAL. ACS'S LIABILITY FOR DAMAGES SHALL BE LIMITED AND/OR EXCLUDED AS PROVIDED IN THIS AGREEMENT, EVEN IF ANY EXCLUSIVE REMEDY PROVIDED FOR IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

d) The foregoing indemnification obligations are conditioned on the indemnifying party ("**Indemnitor**") having sole control over the defense (including selection of counsel) and settlement of any claim that is subject to indemnification under this Agreement provided that indemnified party ("**Indemnatee**") has approved such settlement, which approval shall not be unreasonably denied. Indemnatee shall provide Indemnitor with timely notice of the existence of such proceedings and such information, documents and other cooperation as reasonably necessary to assist Indemnitor in establishing a defense to such action. Indemnatee reserves the right, at its option and expense, to participate in the defense of any suit or proceeding through counsel of its own choosing. This Section 21 shall survive any termination of this Agreement.

22. **Amendment.** Any amendment to this Agreement must be in writing and signed by authorized representatives of each of ACS and Hospital.

23. **Assignment.** Except as otherwise provided herein, neither party may without the written consent of the other assign, delegate or otherwise transfer this Agreement or any of its rights or obligations under this Agreement. Notwithstanding the foregoing, Hospital may assign this Agreement and its rights and duties hereunder to another entity that either controls Hospital or is under common control with Hospital, or buys all or substantially all of the assets of Hospital, without obtaining the prior written consent of ACS; provided that Hospital furnishes written notice to ACS of such assignment within thirty (30) days' of the effective date of such assignment. Hospital acknowledges and agrees that, in the event of such assignment, ACS may require Hospital, if enrolled in NSQIP QVP, to submit a new application for participation in the ACS NSQIP QVP and/or conduct additional Site Visit(s) to verify Hospital's continued compliance with the Standards, each and any of which shall be at Hospital's expense in accordance with the terms of this Agreement.

24. **Severability.** If any part of this Agreement is determined to be invalid, illegal or unenforceable by any Act of Congress, state legislature, or by any federal or state regulation, or declared null and void by any court with valid jurisdiction, then the parties will modify such part, if possible, to conform to the law, and the remaining parts will be fully effective and operative insofar as reasonably possible.

25. **Entire Agreement.** This Agreement constitutes the entire understanding and agreement between the parties concerning the subject matter of this Agreement, and supersedes all prior negotiations, agreements and understandings between the parties, whether oral or in writing, concerning its subject matter.

26. **Jurisdiction.** This Agreement is governed by the laws of the State of Illinois and venue for resolution of any disputes arising hereunder or related hereto shall reside in a federal or state court of competent jurisdiction situated in Cook County, Illinois.

27. **Third Party Beneficiaries.** ACS and Hospital expressly acknowledge and agree that individuals whose PHI is used by or disclosed to ACS and its employees, agents, or subcontractors, or any of them, under this Agreement are not third-party beneficiaries of this Agreement. ACS and Hospital further expressly acknowledge and agree that individuals who utilize Hospital's services are not third-party beneficiaries of this Agreement, and nothing in this Agreement is intended to create any third party beneficiary to this Agreement.

28. **Waiver.** No provision of this Agreement may be waived except by an agreement in writing signed by the waiving party. A waiver of any term or provision shall not be construed as a waiver of any other term or provision.

29. **Relationship of the Parties.** The parties are independent contractors of each other. Nothing in this Agreement

shall be construed to create an employer/employee, joint venture, or other similar relationship between the parties. Neither party shall have the right to exercise control or direction over the business of the other party.

30. **Notices.** Any notices required pursuant to this Agreement shall be in writing and sent by U.S. Mail, personal delivery, next-day express mail, or by facsimile addressed as identified below:

If to ACS:

American College of Surgeons
Attn: Gay Vincent, CFO
633 North Saint Clair St.
Chicago, IL 60611-3211
Fax: 312-202-5025

If to Hospital:

Hospital: _____
Attn: _____
Street Address: _____
City, State, Zip: _____
Fax: _____

31. **Exclusion.** The parties represent and warrant that to the best of each party's knowledge, such party is not currently and has not been, excluded from participating in any federal health care program.

32. **Insurance.** Each party will maintain business liability insurance which such party determines is commercially reasonable and sufficient to cover such party's obligations under this Agreement.

33. **Access to Books and Records.** If and to the extent applicable to ACS, for four (4) years after services are furnished pursuant to the Agreement, ACS shall retain, and shall allow the Comptroller General of the United States, the United States Department of Health and Human Services, and their duly authorized representatives, access to this Agreement and to such of ACS's books, documents, and records as are necessary to verify the nature and extent of the costs of the services rendered pursuant to this Agreement. If ACS provides services or a portion of services identified in this Agreement pursuant to a subcontract with an individual or organization that is related to ACS by control or common ownership and the services or portion of services provided pursuant to such subcontract has a value or cost of \$10,000.00 or more over a twelve (12) month period, ACS shall require the subcontractor in writing through the subcontract to retain and allow access to its records on the same terms and conditions as set forth herein. This Section shall be null and void to the extent 42 U.S.C. §1395x(v)(1)(I), as amended, is not applicable to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates set forth hereinbelow.

"ACS"

AMERICAN COLLEGE OF SURGEONS

By: _____

Name: _____

Title: _____

Date: _____

"HOSPITAL"

**COUNTY OF MONTEREY
NATIVIDAD MEDICAL CENTER**

By: _____

Name: _____

Title: _____

Date: _____



Monterey County

Item No.28

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-505

September 27, 2022

Introduced: 9/12/2022

Current Status: Natividad Medical Center -
Consent

Version: 1

Matter Type: BoS Agreement

- a. Authorize Chief Executive Officer (CEO) for Natividad or his designee to execute the Second Amendment to the Professional and Call Coverage Services Agreement with Richard Moore M.D., Inc. to provide general and critical care surgery services at NMC extending the term by twenty-four months (October 1, 2022 to September 30, 2024) for a revised full agreement term of October 1, 2018 to September 30, 2024, and adding \$300,000 for a revised not to exceed amount of \$800,000 in the aggregate; and
- b. Authorize the CEO for Natividad to sign up to three (3) future amendments to this agreement where the total amendments do not significantly change the scope of work and do not cause an increase of more than ten percent 10% (\$50,000) of the original contract amount.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize Chief Executive Officer (CEO) for Natividad or his designee to execute the Second Amendment to the Professional and Call Coverage Services Agreement with Richard Moore M.D., Inc. to provide general and critical care surgery services at NMC extending the term by twenty-four months (October 1, 2022 to September 30, 2024) for a revised full agreement term of October 1, 2018 to September 30, 2024, and adding \$300,000 for a revised not to exceed amount of \$800,000 in the aggregate; and
- b. Authorize the CEO for Natividad to sign up to three (3) future amendments to this agreement where the total amendments do not significantly change the scope of work and do not cause an increase of more than ten percent 10% (\$50,000) of the original contract amount.

SUMMARY/DISCUSSION:

Natividad received its designation as the Level II Trauma Center for Monterey County in January 2015. The American College of Surgeons requires acute critical care surgeons to be available in-house with a 15 minute response time for Level II Trauma Centers. In order to provide 24/7 care, it is necessary to maintain a core team of quality surgeons made up of employed and independent contract physicians to provide daily call coverage in the Emergency Department and follow-up care to patients in the Intensive Care Unit.

Natividad has an agreement with Richard Moore M.D., a board certified and fellowship trained trauma and critical care surgeon to provide general and critical care surgery services as part of the comprehensive trauma services required for a Level II Trauma Center. NMC wishes to amend the agreement to extend the term so that Dr. Moore can continue to provide services without interruption. Natividad has obtained an independent opinion of fair market value supporting the payment terms of

this agreement.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed and approved this Amendment as to legal form. Auditor-Controller has reviewed and approved this Agreement as to fiscal provisions. The Amendment has also been reviewed and approved by Natividad's Finance Committee and Board of Trustees.

FINANCING:

The cost of this amendment is \$300,000. The total not to exceed amount of this Agreement is \$800,000 for the period October 1, 2018 to September 30, 2024. The actual cost is contingent upon Dr. Moore's level of participation, in the call panel which may fluctuate based on his availability. Natividad has agreements with multiple providers to ensure sufficient coverage of this service for which the total expenditure will not exceed \$1,300,000 annually and is included in the Fiscal Year 2022/2023 Adopted Budget. There is no impact to the General Fund

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The services rendered in this agreement are required for a Level II Trauma Center and provide NMC with the additional support it needs in order to provide reliable and high-quality patient care which improves the health and quality of life for patients and their families.

- ☐ Economic Development
- ☐ Administration
- ☒ Health and Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Jeanne-Ann Balza, Director of Physician Services, 783.2506

Approved by: Dr. Charles R. Harris, Chief Executive Officer, 783.2553

Attachments:

Second Amendment

First Amendment

Agreement



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers

168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-505

September 27, 2022

Introduced: 9/12/2022

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Authorize Chief Executive Officer (CEO) for Natividad or his designee to execute the Second Amendment to the Professional and Call Coverage Services Agreement with Richard Moore M.D., Inc. to provide general and critical care surgery services at NMC extending the term by twenty-four months (October 1, 2022 to September 30, 2024) for a revised full agreement term of October 1, 2018 to September 30, 2024, and adding \$300,000 for a revised not to exceed amount of \$800,000 in the aggregate; and
- b. Authorize the CEO for Natividad to sign up to three (3) future amendments to this agreement where the total amendments do not significantly change the scope of work and do not cause an increase of more than ten percent 10% (\$50,000) of the original contract amount.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize Chief Executive Officer (CEO) for Natividad or his designee to execute the Second Amendment to the Professional and Call Coverage Services Agreement with Richard Moore M.D., Inc. to provide general and critical care surgery services at NMC extending the term by twenty-four months (October 1, 2022 to September 30, 2024) for a revised full agreement term of October 1, 2018 to September 30, 2024, and adding \$300,000 for a revised not to exceed amount of \$800,000 in the aggregate; and
- b. Authorize the CEO for Natividad to sign up to three (3) future amendments to this agreement where the total amendments do not significantly change the scope of work and do not cause an increase of more than ten percent 10% (\$50,000) of the original contract amount.

SUMMARY/DISCUSSION:

Natividad received its designation as the Level II Trauma Center for Monterey County in January 2015. The American College of Surgeons requires acute critical care surgeons to be available in-house with a 15 minute response time for Level II Trauma Centers. In order to provide 24/7 care, it is necessary to maintain a core team of quality surgeons made up of employed and independent contract physicians to provide daily call coverage in the Emergency Department and follow-up care to patients in the Intensive Care Unit.

Natividad has an agreement with Richard Moore M.D., a board certified and fellowship trained trauma and critical care surgeon to provide general and critical care surgery services as part of the comprehensive trauma services required for a Level II Trauma Center. NMC wishes to amend the agreement to extend the term so that Dr. Moore can continue to provide services without interruption. Natividad has obtained an independent opinion of fair market value supporting the payment terms of this agreement.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed and approved this Amendment as to legal form. Auditor-Controller has reviewed and approved this Agreement as to fiscal provisions. The Amendment has also been reviewed and approved by Natividad's Finance Committee and Board of Trustees.

FINANCING:

The cost of this amendment is \$300,000. The total not to exceed amount of this Agreement is \$800,000 for the period October 1, 2018 to September 30, 2024. The actual cost is contingent upon Dr. Moore's level of participation, in the call panel which may fluctuate based on his availability. Natividad has agreements with multiple providers to ensure sufficient coverage of this service for which the total expenditure will not exceed \$1,300,000 annually and is included in the Fiscal Year 2022/2023 Adopted Budget. There is no impact to the General Fund

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The services rendered in this agreement are required for a Level II Trauma Center and provide NMC with the additional support it needs in order to provide reliable and high-quality patient care which improves the health and quality of life for patients and their families.

- ☐ Economic Development
- ☐ Administration
- ☒ Health and Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Jeanne-Ann Balza, Director of Physician Services, 783.2506

Approved by: Dr. Charles R. Harris, Chief Executive Officer, 783.2553

Attachments:

Second Amendment

First Amendment

Agreement

Charles R Harris

Charles R. Harris, M.D., Chief Executive Officer

09/21/2022

Date

SECOND AMENDMENT TO PROFESSIONAL AND COVERAGE SERVICES AGREEMENT

THIS SECOND AMENDMENT TO PROFESSIONAL AND COVERAGE SERVICES AGREEMENT (the “**Amendment**”) is made and entered into as of October 1, 2022 by and between COUNTY OF MONTEREY (“**County**”) on behalf of NATIVIDAD MEDICAL CENTER (“**Hospital**”), and RICHARD MICHAEL MOORE, M.D., APC, a California professional corporation (“**Contractor**”) with respect to the following:

RECITALS

A. County owns and operates Hospital, a general acute care teaching hospital facility and Level II Trauma Center located in Salinas, California under its acute care license.

B. Contractor and Hospital have entered into that certain Professional and Coverage Services Agreement dated effective as of September 1, 2018 and as amended effective October 1, 2020 (collectively, the “**Agreement**”), pursuant to which Contractor provides Specialty services to Hospital’s Patients.

C. Hospital and Contractor desire to amend the Agreement to extend the term by twenty-four (24) months and add Three Hundred Thousand Dollars (\$300,000) to the aggregate amount payable to Contractor.

AGREEMENT

IN CONSIDERATION of the foregoing recitals and the mutual promises and covenants contained herein, Hospital and Contractor agree as follows:

1. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

2. **Section 2.1.** Section 2.1 to the Agreement is hereby amended and restated to read in its entirety as follows:

“**2.1 Compensation.** Hospital shall pay to Contractor the amount determined in accordance with Exhibit 2.1 (the “**Compensation**”), upon the terms and conditions set forth therein. The total amount payable by Hospital to Contractor under this Agreement shall not exceed the sum of Eight Hundred Thousand Dollars (\$800,000).”

3. **Section 5.1.** Section 5.1 to the Agreement is hereby amended and restated to read in its entirety as follows:

“**5.1 Term.** This Agreement shall become effective on September 1, 2018 (the “**Effective Date**”), and shall continue until September 30, 2024 (the “**Expiration Date**”), subject to the termination provisions of this Agreement.”

4. **Counterparts.** This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.


5. **Continuing Effect of Agreement.** Except as herein provided, all of the terms and conditions of the Agreement remain in full force and effect from the Effective Date of the Agreement.

6. **Reference.** After the date of this Amendment, any reference to the Agreement shall mean the Agreement as amended by this Amendment.

IN WITNESS WHEREOF, Hospital and Contractor have executed this Amendment as of the day and year first written above.

CONTRACTOR

RICHARD MICHAEL MOORE, M.D., APC,
a California professional corporation

By:  DocuSigned by:
B224FFC85FD8426...
Its MD _____

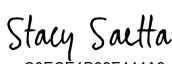
Date: 9/2/2022 | 8:57 PM PDT

NATIVIDAD MEDICAL CENTER

Deputy Purchasing Agent

Date: _____

APPROVED AS TO LEGAL PROVISIONS:

 DocuSigned by:
C0ECE1B99F444A9...
Stacy Saetta, Deputy County Counsel

Date: 9/6/2022 | 12:20 PM PDT

APPROVED AS TO FISCAL PROVISIONS:

 DocuSigned by:
D38348FEC1D8449...
Deputy Auditor/Controller

Date: 9/6/2022 | 1:35 PM PDT

**FIRST AMENDMENT TO PROFESSIONAL AND COVERAGE SERVICES
AGREEMENT**

THIS FIRST AMENDMENT TO PROFESSIONAL AND COVERAGE SERVICES AGREEMENT (the “**Amendment**”) is made and entered into as of October 1, 2020 by and between COUNTY OF MONTEREY (“**County**”) on behalf of NATIVIDAD MEDICAL CENTER (“**Hospital**”), and RICHARD MICHAEL MOORE, M.D., APC, a California professional corporation (“**Contractor**”) with respect to the following:

RECITALS

A. County owns and operates Hospital, a general acute care teaching hospital facility and Level II Trauma Center located in Salinas, California under its acute care license.

B. Contractor and Hospital have entered into that certain Professional and Coverage Services Agreement dated September 1, 2018 (the “**Agreement**”), pursuant to which Contractor provides Specialty services to Hospital’s Patients.

C. Hospital and Contractor desire to amend the Agreement to extend the term by twenty-four (24) months.

AGREEMENT

IN CONSIDERATION of the foregoing recitals and the mutual promises and covenants contained herein, Hospital and Contractor agree as follows:

1. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

2. **Section 5.1.** Section 5.1 to the Agreement is hereby amended and restated to read in its entirety as follows:

“5.1 Term. This Agreement shall become effective on September 1, 2018 (the “**Effective Date**”), and shall continue until September 30, 2022 (the “**Expiration Date**”), subject to the termination provisions of this Agreement.”

3. **Counterparts.** This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.


4. **Continuing Effect of Agreement.** Except as herein provided, all of the terms and conditions of the Agreement remain in full force and effect from the Effective Date of the Agreement.

5. **Reference.** After the date of this Amendment, any reference to the Agreement shall mean the Agreement as amended by this Amendment.

IN WITNESS WHEREOF, Hospital and Contractor have executed this Amendment as of the day and year first written above.

CONTRACTOR

RICHARD MICHAEL MOORE, M.D., APC,
a California professional corporation

By: 
Its _____

Date: 8/30, 2020

NATIVIDAD MEDICAL CENTER

Dr. Gary R. Gray
Deputy Purchasing Agent

Date: 10/1/20, 20__

APPROVED AS TO LEGAL PROVISIONS:


Stacy Saetta, Deputy County Counsel

Date: September 3, 2020

APPROVED AS TO FISCAL PROVISIONS:

gary k giboney
Deputy Auditor/Controller

Date: September 3, 2020



Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Agreement No. A-14085

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

- a. Authorized the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute the Professional and Call Coverage Services Agreement with Richard Moore M.D., Inc. to provide general and critical care surgery services at NMC for an amount not to exceed \$500,000 for the period September 1, 2018 to September 30, 2020; and
- b. Authorized the Deputy Purchasing Agent for NMC or his designee to sign up to three (3) future amendments to this agreement where the total amendments do not cause an increase of more than ten percent 10% (\$50,000) of the original contract amount and do not significantly change the scope of work.

PASSED AND ADOPTED on this 28th day of August 2018, by the following vote, to wit:

AYES: Supervisors Alejo, Salinas, Phillips, Parker and Adams

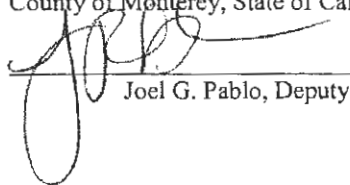
NOES: None

ABSENT: None

I, Valerie Ralph, 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 81 for the meeting August 28, 2018.

Dated: August 28, 2018
File ID: A 18-371

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California



Joel G. Pablo, Deputy

PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT

by and between

NATIVIDAD MEDICAL CENTER (“Hospital”)

and

RICHARD MICHAEL MOORE, M.D., APC (“Contractor”)

PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT

THIS PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT (this “**Agreement**”) is entered into as of September 1, 2018, by and between COUNTY OF MONTEREY (“**County**”) on behalf of NATIVIDAD MEDICAL CENTER (“**Hospital**”), and RICHARD MICHAEL MOORE, M.D., APC, a California professional corporation (“**Contractor**”). County, Hospital and Contractor are sometimes referred to in this Agreement as a “**Party**” or, collectively, as the “**Parties**.”

RECITALS

A. County owns and operates Hospital, a general acute care teaching hospital facility and Level II Trauma Center located in Salinas, California and various outpatient clinics under its acute care license.

B. Contractor is duly licensed to practice medicine in the State of California (the “**State**”). Contractor is board certified for the practice of medicine in the specialty of general and critical care surgery (collectively, the “**Specialty**”).

C. Hospital must arrange for the provision of professional consultation and treatment of patients who present to the emergency department (“**ED**”) and who are admitted as Hospital inpatients in need of medical care or treatment in the Specialty, including inpatient and outpatient procedures performed in Hospital’s operating room and who present to Hospital’s Clinic (collectively, the “**Patients**”), without regard to any consideration other than medical condition.

D. In order to ensure adequate and continued Specialty coverage for the Hospital as required by applicable federal and state laws, Hospital desires to engage a panel of physicians specializing in the Specialty, including Contractor (each, a “**Panel Member**” and, collectively, the “**Panel Members**”), to provide call coverage for the Hospital, upon the terms and subject to the conditions set forth in this Agreement.

E. Hospital has considered the following factors in determining the necessity and amount of compensation payable to Contractor pursuant to this Agreement:

1. The nature of Contractor’s duties as contemplated by this Agreement.
2. Contractor’s qualifications.
3. The benefits to Hospital’s community resulting from Contractor’s performance of the services described in this Agreement.

AGREEMENT

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I. CONTRACTOR'S OBLIGATIONS

1.1 Professional Services.

(a) Contractor shall provide the Specialty professional services Contractor is qualified to provide (the “**Professional Services**”) to Patients, upon the terms and subject to the conditions set forth in this Agreement.

(b) Contractor shall provide call-coverage services on-site at Hospital, available on an on-call basis to provide Specialty medical care and treatment to Patients within fifteen (15) minutes of notification (“**Coverage Services**”), upon the terms and conditions set forth in this Agreement.

(c) Contractor shall provide timely initial follow-up care for all Hospital patients referred for care by the ED or attending physician. If Contractor is the physician on-call at the time of the referral, Contractor shall provide any necessary follow-up care for such patients regardless of the patient's ability to pay for services at the time of the first visit.

1.2 Teaching Services. Contractor shall provide to Hospital those teaching services set forth in Exhibit 1.2 (collectively, the “**Teaching Services**”). Contractor shall not be separately compensated for the provision of Teaching Services under this Agreement.

1.3 Additional Services. Contractor shall provide to Hospital those additional services set forth in Exhibit 1.3 (the “**Additional Services**”), upon the terms and subject to the conditions set forth in this Agreement. The Professional Services, Teaching Services, Coverage Services and Additional Services are sometimes referred to collectively in this Agreement as the “**Services.**”

1.4 Personal Services. This Agreement is entered into by Hospital in reliance on the professional skills of Contractor. Contractor shall be solely responsible for performing the Services and otherwise fulfilling the terms of this Agreement, except as specifically set forth in this Agreement.

1.5 Time Commitment. Contractor shall allocate time among the Professional Services, Teaching Services, Coverage Services and Additional Services as reasonably requested by Hospital from time to time.

1.6 Availability. Contractor shall provide Coverage Services along with other Panel Members in a manner that is sufficient to ensure Specialty coverage for the Hospital twenty-four (24) hours per day, seven (7) days per week, including all holidays, in accordance with the schedule developed by Hospital in consultation with the Panel Members from time to time. On or

before the first (1st) day of each month, Contractor shall inform Hospital of Contractor's schedule of availability to perform the Services during the following month. Contractor shall use his or her best efforts to adjust such schedule of availability if reasonably requested by Hospital in order to meet Hospital's needs for the Services. Contractor shall not be simultaneously on-call to any other hospital or health care facility while scheduled to provide Coverage Services for the Hospital, except as otherwise approved in writing by Hospital. Contractor's breach of this Section 1.6 shall constitute grounds for immediate removal from future trauma call at Hospital. If Contractor is for any reason unable to perform Coverage Services as scheduled, Contractor shall inform Hospital within thirty (30) days prior to the day Contractor is scheduled to provide the Coverage Services.

1.7 Absences. If Contractor is for any reason unable to perform Coverage Services as scheduled, Contractor shall inform Hospital within thirty (30) days prior to the day Contractor is scheduled to provide the Coverage Services. If Contractor is unable or reasonably expected to be unable to provide the Services for any reason for a period of greater than thirty (30) consecutive days or sixty (60) days in the aggregate over any three (3) month period, Contractor shall designate a qualified replacement to provide the Services on behalf of Contractor, subject to the prior written approval of Hospital. Contractor shall ensure that any such designated replacement meets any and all obligations and requirements of Contractor under this Agreement. If the length of Contractor's absence is anticipated to be or actually is longer than sixty (60) calendar days, the person who provides the Services in Contractor's absence shall execute a written acknowledgment in form and substance acceptable to Hospital agreeing to be bound by all terms of this Agreement. Except in the event of absence due to illness or disability, Hospital shall have the right to approve the length of Contractor's absence, and any unapproved absence shall constitute a breach of this Agreement.

1.8 Time Reports. Contractor shall maintain and submit to Hospital monthly time sheets that provide a true and accurate accounting of time spent on a daily basis providing the Services. Such time sheets shall be on the then-current form provided by Hospital attached hereto as **Exhibit 1.8**. Contractor shall submit all such time sheets to Hospital no later than the tenth (10th) day of each month for Services provided by Contractor during the immediately preceding month.

1.9 Medical Staff. Contractor shall be a member in good standing and active on the Hospital's medical staff ("Medical Staff") and have and maintain all clinical privileges at Hospital necessary for the performance of Contractor's obligations under this Agreement. If, as of the Effective Date (as defined in Section 5.1), Contractor is not a member in good standing or active on the Medical Staff or does not hold all clinical privileges at Hospital necessary for the performance of Contractor's obligations hereunder, Contractor shall have a reasonable amount of time, which in no event shall exceed sixty (60) calendar days from the Effective Date, to obtain such membership and/or clinical privileges; provided, however, that Hospital may immediately terminate this Agreement if Hospital determines that Contractor is not diligently pursuing such membership and/or clinical privileges in accordance with the normal procedures set forth in the Medical Staff bylaws. Contractor may obtain and maintain medical staff privileges at any other hospital or health care facility at Contractor's sole expense.

1.10 Professional Qualifications. Contractor shall have and maintain an unrestricted license to practice medicine in the State. Contractor shall be board certified in the Specialty by the applicable medical specialty board approved by the American Board of Medical Specialties. Contractor shall have and maintain a valid and unrestricted United States Drug Enforcement Administration (“DEA”) registration.

1.11 Review of Office of the Inspector General (“OIG”) Medicare Compliance Bulletins. The OIG from time to time issues Medicare compliance alert bulletins. To the extent applicable to Contractor’s performance under this Agreement, Contractor shall undertake to review, be familiar with and comply with all applicable requirements of such OIG compliance bulletins.

1.12 Performance Standards. Contractor shall comply with all bylaws, Medical Staff policies, rules and regulations of Hospital and the Medical Staff (collectively, the “Hospital Rules”), and all protocols applicable to the Services or the Hospital (the “Protocols”).

1.13 Code of Conduct. Contractor hereby acknowledges receipt of Hospital’s Code of Conduct which is attached to this Agreement as **Exhibit 1.13** (the “Code”), and agrees that Contractor has been given ample opportunity to read, review and understand the Code. With respect to Contractor’s business dealings with Hospital and Contractor’s performance of the Services described in this Agreement, Contractor shall not act in any manner which conflicts with or violates the Code, and shall not cause another person to act in any manner which conflicts with or violates the Code. Contractor shall comply with the Code as it relates to Contractor’s business relationship with Hospital or any Affiliate, subsidiaries, employees, agents, servants, officers, directors, contractors and suppliers of every kind.

1.14 Continuing Medical Education. Contractor shall participate in continuing medical education (“CME”) as necessary to maintain licensure, professional competence and skills commensurate with the standards of the medical community, as required under the American College of Surgeons trauma center requirements and guidelines (“ACS Requirements”) or as otherwise required by the medical profession. Contractor must provide to Hospital documentation showing Contractor’s completion of a minimum of sixteen (16) hours of CME per year, or forty-eight (48) hours over three (3) years of external trauma-related CME.

1.15 Use of Space. Contractor shall use Hospital’s premises and space solely and exclusively for the provision of the Services, except in an emergency or with Hospital’s prior written consent.

1.16 Notification of Certain Events. Contractor shall notify Hospital in writing within twenty-four (24) hours after the occurrence of any one or more of the following events:

(a) Contractor becomes the subject of, or materially involved in, any investigation, proceeding, or disciplinary action by: Medicare and Medicaid programs or any other Federal health care program, as defined at 42 U.S.C. Section 1320a-7b(f) (collectively, the “Federal Health Care Programs”) or state equivalent, any state’s medical board, any agency responsible for professional licensing, standards or behavior, or any medical staff;

(b) Contractor's medical staff membership or clinical privileges at any hospital are denied, suspended, restricted, revoked or voluntarily relinquished, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) Contractor becomes the subject of any suit, action or other legal proceeding arising out of Contractor's professional services;

(d) Contractor is required to pay damages or any other amount in any malpractice action by way of judgment or settlement;

(e) Contractor becomes the subject of any disciplinary proceeding or action before any state's medical board or similar agency responsible for professional standards or behavior;

(f) Contractor voluntarily or involuntarily retires from the practice of medicine;

(g) Contractor's license to practice medicine in the State is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(h) Contractor is charged with or convicted of a criminal offense;

(i) any act of nature or any other event occurs which has a material adverse effect on Contractor's ability to provide the Services; or

(j) Contractor is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program or state equivalent.

1.17 Representations and Warranties by Contractor. Contractor represents and warrants that: (a) Contractor's license to practice medicine in any state has never been suspended, revoked or restricted; (b) Contractor has never been reprimanded, sanctioned or disciplined by any licensing board or medical specialty board; (c) Contractor has never been excluded or suspended from participation in, or sanctioned by, any Federal Health Care Program; (d) Contractor has never been denied membership and/or reappointment to the medical staff of any hospital or health care facility; (e) Contractor's medical staff membership or clinical privileges at any hospital or health care facility have never been suspended, limited or revoked for a medical disciplinary cause or reason; and (f) Contractor has never been charged with or convicted of a felony, a misdemeanor involving fraud, dishonesty, controlled substances, or moral turpitude, or any crime relevant to the provision of medical services or the practice of medicine.

1.18 Nondiscrimination. Contractor shall not differentiate or discriminate in performing the Services on the basis of race, religion, creed, color, national origin, ancestry, sex, physical disability, mental disability, medical condition, marital status, age, sexual orientation or payor, or on any other basis prohibited by applicable law.

1.19 Non-Exclusive Services. The Services provided by Contractor hereunder are intended to be non-exclusive. Notwithstanding the above, during the term of this Agreement, Contractor shall undertake to retain the service capacity necessary to provide those Services described in this Agreement, to the extent necessary to serve the reasonably foreseeable patient needs for medical care at Hospital and the administrative services hereunder.

1.20 Compliance with Grant Terms. If this Agreement has been or will be funded with monies received by Hospital or County pursuant to a contract with the state or federal government or private entity in which Hospital or County is the grantee, Contractor shall comply with all the provisions of said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, Hospital shall deliver a copy of said contract to Contractor at no cost to Contractor.

1.21 Coordination with Attending Physicians. Contractor shall promptly report the results of all professional services furnished to an ED patient to such patient's attending physician(s) and any other physician(s) engaged in specialty consultation or treatment for such patient.

1.22 Medical Records and Claims.

(a) Contractor shall prepare complete, timely, accurate and legible medical and other records with respect to the services and treatment furnished by Contractor to ED patients, in accordance with the Hospital Rules, federal and state laws and regulations, and standards and recommendations of such nationally recognized accrediting organization as Hospital designates from time to time. All such information and records relating to any ED patient shall be: (i) prepared on forms developed, provided or approved by Hospital; (ii) the sole property of Hospital; and (iii) maintained at Hospital in accordance with the terms of this Agreement and for so long as is required by applicable laws and regulations.

(b) Contractor shall maintain and upon request provide to ED patients, Hospital, and state and federal agencies, all financial books and records and medical records and charts as may be necessary for Contractor and/or Hospital to comply with applicable state, federal, and local laws and regulations and with contracts between Hospital and third party payors. Contractor shall cooperate with Hospital in completing such claim forms for ED patients as may be required by insurance carriers, health care service plans, governmental agencies, or other third party payors. Contractor shall retain all such records and information for at least ten (10) years following the expiration or termination of this Agreement. This Section 1.22(b) shall survive the expiration or termination of this Agreement.

1.23 Records Available to Contractor. Both during and after the term of this Agreement, Hospital shall permit Contractor and Contractor's agents to inspect and/or duplicate, at Contractor's sole cost and expense, any medical chart and record to the extent necessary to meet Contractor's professional responsibilities to patients, to assist in the defense of any malpractice or similar claim to which such chart or record may be pertinent, and/or to fulfill requirements pursuant to provider contracts to provide patient information; provided, however, such inspection or duplication is permitted and conducted in accordance with applicable legal requirements and pursuant to commonly accepted standards of patient confidentiality.

Contractor shall be solely responsible for maintaining patient confidentiality with respect to any information which Contractor obtains pursuant to this Section.

1.24 Response Times. Contractor shall be promptly available and respond in person to a request for an emergency evaluation by the attending physician or the ED physician within a response time frame as required by the patient's medical condition and in accordance with the requirements set forth in **Exhibit 1.24**, the Hospital Rules and ACS Requirements.

ARTICLE II. COMPENSATION

2.1 Compensation. Hospital shall pay to Contractor the amount determined in accordance with **Exhibit 2.1** (the "**Compensation**"), upon the terms and conditions set forth therein. The total amount payable by Hospital to Contractor under this Agreement shall not exceed the sum of Five Hundred Thousand Dollars (\$500,000).

2.2 Billing and Collections. Contractor shall be solely responsible for billing and collecting for all Professional Services rendered to Patients pursuant to this Agreement ("**Physician Services**"). Contractor agrees that such collections shall be Contractor's sole compensation for Physician Services. All billing shall be in compliance with applicable laws, customary professional practice, the Medicare and Medicaid Programs and other third party payor programs, whether public or private.

(a) **Billing Compliance.** Contractor shall comply with all applicable Laws, including those of the Federal Health Care Programs, customary professional practice, and other third party payor programs, whether public or private, in connection with billing and coding for Physician Services provided pursuant to this Agreement. Contractor shall adopt and maintain billing and coding compliance policies and procedures to ensure Contractor's compliance with applicable Laws, including those of the Federal Health Care Programs. Hospital shall have reasonable access to Contractor's records in order to assure Contractor's compliance with this Agreement.

(b) **Patient Information.** Hospital shall take all necessary and reasonable steps to provide Contractor appropriate patient information to facilitate Contractor's billing for the Physician Services rendered pursuant to this Agreement.

(c) **Separate Billing.** Neither Contractor nor Hospital shall bill for, guarantee the ability to collect, or have any claim or interest in or to the amounts billed or collected by the other Party. Contractor shall cooperate with Hospital in completing such claim forms for Patients as may be required by insurance carriers, health care service plans, governmental agencies, or other third party payors.

(d) **Debt Collection Practices.** Contractor shall comply, and shall ensure that any collection agency engaged by Contractor complies, with the Fair Debt Collection Practices Act (15 U.S.C. 1692, et seq.) and Section 1788, et seq. of the California Civil Code (collectively, the "**Debt Collection Acts**"). Contractor shall not, and shall ensure that any collection agency engaged by Contractor does not, with respect to any Hospital patient who is not enrolled in any

HMO, PPO, POS or other third party payor plan or program, or Medicare, Medicaid or any other government funded health care benefit plan or program: (i) use wage garnishments or liens on primary residences as a means of collecting unpaid bills for Physician Services rendered by Contractor pursuant to this Agreement, or (ii) report adverse information to a consumer credit reporting agency or commence civil action against any such patient for nonpayment at any time prior to one hundred fifty (150) days after initial billing for Physician Services rendered by Contractor pursuant to this Agreement.

(e) **Collection Agencies.** Hospital shall have the right to object to Contractor's use of any collection agency that engages in conduct that violates the Debt Collection Acts or Section 2.2(d) of this Agreement, or that results in the unreasonable annoyance or harassment of patients. Contractor shall either cure this problem or discharge the collection agency within thirty (30) days following written notice of objection by Hospital. If this problem occurs a second time, Contractor shall discharge the collection agency within thirty (30) days following written notice of objection by Hospital.

2.3 Third Party Payor Arrangements.

(a) Contractor shall cooperate in all reasonable respects necessary to facilitate Hospital's entry into or maintenance of any third party payor arrangements for the provision of services under Federal Health Care Programs or any other public or private health and/or hospital care programs, including insurance programs, self-funded employer health programs, health care service plans and preferred provider organizations.

(b) To enable Hospital to participate in any third party payor arrangement, Contractor shall, not more than ten (10) business days following Hospital's request:

- (i) Initiate enrollment as a provider (if required by the third party payor), separate from Hospital, with any third party payor or intermediate organization (including any independent practice association) (each, a "**Managed Care Organization**") designated by Hospital for the provision of Professional Services to Hospital patients covered by such Managed Care Organization;
- (ii) Complete any documents (e.g., CAQH Universal Provider Datasource form) as may be reasonably necessary or appropriate to effectuate enrollment;
- (iii) Enter into a written agreement with such Managed Care Organization as may be necessary or appropriate for the provision of Professional Services to Hospital patients covered by such Managed Care Organization; and/or
- (iv) Enter into a written agreement with Hospital regarding global billing, capitation or other payment arrangements as may be necessary or appropriate for the provision of Professional Services to Hospital patients covered by such Managed Care Organization.

ARTICLE III.
INSURANCE AND INDEMNITY

3.1 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 Hospital's Medical Staff Office, 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 Hospital has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

3.2 Qualifying Insurers. All coverages 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 Hospital's Contracts/Purchasing Director.

3.3 Insurance Coverage Requirements. Without limiting Contractor's duty to indemnify, Contractor shall maintain in effect throughout the term of this Agreement, at Contractor's sole cost and expense, a policy or policies of insurance with the following minimum limits of liability:

(a) **Professional liability insurance**, covering Contractor with coverage of not less than One Million Dollars (\$1,000,000) per physician per occurrence and Three Million Dollars (\$3,000,000) per physician in the aggregate; or such other amount(s) of professional liability insurance as may be required by Article 2.2-1 of Hospital's Medical Staff Bylaws from time to time, to cover liability for malpractice and/or errors or omissions made in the course of rendering services under this Agreement. If any professional liability insurance covering Contractor is procured on a "Claims Made" rather than "Occurrence" basis, then Contractor shall either continue such coverage or obtain extended reporting coverage ("**Tail Coverage**"), as appropriate, upon the occurrence of any of the following: (i) termination or expiration of this Agreement; (ii) change of coverage if such change shall result in a gap in coverage; or (iii) amendment, reduction or other material change in the then existing professional liability coverage of Contractor if such amendment, reduction or other material change will result in a gap in coverage. Any Tail Coverage shall have liability limits in the amount set forth above and shall in all events continue in existence until the greater of: (a) three (3) years or (b) the longest statute of limitations for professional and general liability for acts committed has expired. All insurance required by this Agreement shall be with a company acceptable to County and issued and executed by an admitted insurer authorized to transact insurance business in the State.

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

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

(c) **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 One Million Dollars (\$1,000,000) per occurrence.

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

(d) **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 One Million Dollars (\$1,000,000) each person, One Million Dollars (\$1,000,000) each accident and One Million Dollars (\$1,000,000) each disease.

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

3.4 Other Insurance Requirements. All insurance required by this Agreement shall be with a company acceptable to Hospital and issued and executed by an admitted insurer authorized to transact insurance business in the State. 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 (3) years following the date Contractor completes its performance of services under this Agreement.

Each liability policy shall provide that Hospital shall be given notice in writing at least thirty (30) 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 insured 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 from 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 from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by Hospital, Contractor shall file certificates of insurance with Hospital's Medical Staff Office, 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 (5) 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 Hospital, annual certificates to Hospital's Medical Staff Office. If the certificate is not received by the expiration date, Hospital shall notify Contractor and Contractor shall have five (5) 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 Hospital, at its sole discretion, to terminate the Agreement immediately.

3.5 Right to Offset Insurance Costs.

(a) In the event that Contractor does not purchase or otherwise have the liability insurance set forth in this Section at any time during the term of this Agreement, and without limiting any rights or remedies of County, County may at its option and within its sole discretion provide the liability insurance required by this Section and continue to pay the premiums therefor. If Contractor does not promptly reimburse all such amounts, then County shall have the right to withhold and offset the compensation due to Contractor under this Agreement, in addition to such other rights or privileges as County may have at law or in equity.

(b) The County's option to provide such insurance and to offset the compensation otherwise due to the Contractor shall also apply to the "Tail Coverage" referenced in Section 3.3, including for general liability if during the term of the Agreement such coverage has been written on a claims made basis, which is required to remain effective after the expiration or termination of this Agreement for any reason.

3.6 Indemnification.

(a) **Indemnification by Contractor.** Contractor shall indemnify, defend, and hold harmless County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with Contractor's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County. "Contractor's performance" includes Contractor's acts or omissions and the acts or omissions of Contractor's officers, employees, agents and subcontractors.

(b) **Indemnification by County.** County agrees to defend, indemnify, and hold harmless Contractor, to the extent permitted by applicable law, from and against any and all claims and losses whatsoever accruing or resulting to any person, firm or corporation for damages, injury or death arising out of or connected with any negligent act or omission or willful misconduct of County or any of its agents or employees.

3.7 Indemnification for Timely Payment of Tax Contributions. It is expressly agreed by the Parties hereto that no work, act, commission or omission of Contractor shall be construed to make or render Contractor the agent, employee or servant of County. Contractor agrees to indemnify, defend and hold harmless County and Hospital from and against any and all liability, loss, costs or obligations (including, without limitation, interest, penalties and attorney's fees in defending against the same) against County or Hospital based upon any claim that Contractor has failed to make proper and timely payment of any required tax contributions for itself, its employees, or its purported agents or independent contractors.

3.8 Hospital Services. Hospital shall retain professional and administrative responsibility for the operation of the Hospital, as and to the extent required by Title 22, California Code of Regulations, Section 70713. Hospital's retention of such responsibility is not intended and shall not be construed to diminish, limit, alter or otherwise modify in any way the obligations of Contractor under this Agreement, including, without limitation, the obligations under the insurance and indemnification provisions set forth in this Article III.

3.9 Survival of Obligations. The Parties' obligations under this Article III shall survive the expiration or termination of this Agreement for any reason.

ARTICLE IV. RELATIONSHIP BETWEEN THE PARTIES

4.1 Independent Contractor.

(a) Contractor is and shall at all times be an independent contractor with respect to Hospital in the performance of Contractor's obligations under this Agreement. Nothing in this Agreement shall be construed to create an employer/employee, joint venture, partnership, lease or landlord/tenant relationship between Hospital and Contractor. Contractor shall not hold himself or herself out as an officer, agent or employee of Hospital, and shall not incur any contractual or financial obligation on behalf of Hospital without Hospital's prior written consent.

(b) If the Internal Revenue Service ("IRS") or any other governmental agency should inquire about, question or challenge the independent contractor status of Contractor with respect to County, the Parties hereto mutually agree that: (i) each shall inform the other Party hereto of such inquiry or challenge; and (ii) County and Contractor shall each have the right to participate in any discussion or negotiation occurring with the taxing agency, regardless of who initiated such discussions or negotiations. In the event the taxing agency concludes that an independent contractor relationship does not exist, County may terminate this Agreement effective immediately upon written notice. In the event of such termination, the Parties remain free to negotiate an employer/employee contract.

4.2 Limitation on Control. Hospital shall neither have nor exercise any control or direction over Contractor's professional medical judgment or the methods by which Contractor performs professional medical services; provided, however, that Contractor shall be subject to and shall at all times comply with the Protocols and the bylaws, guidelines, policies and rules applicable to other members of the Medical Staff.

4.3 Practice of Medicine. Contractor and Hospital acknowledge that Hospital is neither authorized nor qualified to engage in any activity which may be construed or deemed to constitute the practice of medicine. To the extent that any act or service required of, or reserved to, Hospital in this Agreement is construed or deemed to constitute the practice of medicine, the performance of such act or service by Hospital shall be deemed waived or unenforceable, unless this Agreement can be amended to comply with the law, in which case the Parties shall make such amendment.

4.4 No Benefit Contributions. Hospital shall have no obligation under this Agreement to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to, or on behalf of, Contractor or any other person employed or retained by Contractor. Notwithstanding the foregoing, if Hospital determines or is advised that it is required by law to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to, or on behalf of, Contractor or any other person employed or retained by Contractor, Contractor shall reimburse Hospital for any such expenditure within thirty (30) calendar days after being notified of such expenditure.

4.5 Referrals. Contractor shall be entitled to refer patients to any hospital or other health care facility or provider deemed by Contractor best qualified to deliver medical services to any particular patient; provided, however, that Contractor shall not refer any Hospital patient to any provider of health care services which Contractor knows or should have known is excluded or suspended from participation in, or sanctioned by, any state or Federal Health Care Program. Nothing in this Agreement or in any other written or oral agreement between Hospital and Contractor, nor any consideration offered or paid in connection with this Agreement, contemplates or requires the admission or referral of any patients or business to Hospital or any Affiliate. In the event that any governmental agency, any court or any other judicial body of competent jurisdiction, as applicable, issues an opinion, ruling or decision that any payment, fee or consideration provided for hereunder is made or given in return for patient referrals, either Party may at its option terminate this Agreement with three (3) days' notice to the other Party. Contractor's rights under this Agreement shall not be dependent in any way on the referral of patients or business to Hospital or any Affiliate by Contractor or any person employed or retained by Contractor.

4.6 Form 1099 or W-2. If required to do so under applicable law, Hospital shall issue an Internal Revenue Service Form 1099 or Form W-2 to Contractor.

4.7 Contractor Compensation Arrangements. Contractor represents and warrants to Hospital that the compensation paid or to be paid by Contractor to any physician is and will at all times be fair market value for services and items actually provided by such physician, not taking into account the value or volume of referrals or other business generated by such physician for Hospital or any Affiliate. Contractor further represents and warrants to Hospital that Contractor has and will at all times maintain a written agreement with each physician receiving compensation from Contractor.

4.8 Cooperation.

(a) The Parties recognize that, during the term of this Agreement and for an undetermined time period thereafter, certain risk management issues, legal issues, claims or actions may arise that involve or could potentially involve the Parties and their respective employees and agents. The Parties further recognize the importance of cooperating with each other in good faith when such issues, claims or actions arise, to the extent such cooperation does not violate any applicable laws, cause the breach of any duties created by any policies of insurance or programs of self-insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims or actions. As such, the Parties hereby agree to cooperate in good faith, using their best efforts, to address such risk management and legal issues, claims, or actions.

(b) The Parties further agree that if a controversy, dispute, claim, action or lawsuit (each, an “**Action**”) arises with a third party wherein both the Parties are included as defendants, each Party shall promptly disclose to the other Party in writing the existence and continuing status of the Action and any negotiations relating thereto. Each Party shall make every reasonable attempt to include the other Party in any settlement offer or negotiations. In the event the other Party is not included in the settlement, the settling Party shall immediately disclose to the other Party in writing the acceptance of any settlement and terms relating thereto, if allowed by the settlement agreement.

(c) Contractor shall cooperate with the individual designated by Hospital to have principal responsibility for the administration and operation of the Clinic. Such cooperation shall include supervision, selection, assignment, and evaluation of personnel; management and direction of equipment maintenance; development of budgets; and oversight of the acquisition of materials, supplies, and equipment.

(d) Contractor shall assist Hospital, as reasonably requested by Hospital, in Hospital’s compliance with applicable laws and the standards, requirements, guidelines and recommendations of any governing or advisory body having authority to set standards relating to the operation of Hospital, or any nationally recognized accrediting organization that Hospital designates from time to time.

4.9 Contractor’s Performance. County or Hospital, at its option and within its sole discretion, may seek evaluation of contractual performance by requesting input from Hospital’s Medical Director/Chief Medical Officer and from other professionals within Hospital.

4.10 Right of Inspection. Upon reasonable prior written notice, Hospital and County officials and their designees may inspect the books and records of Contractor which are necessary to determine that work performed by Contractor to patients hereunder is in accord with the requirements of this Agreement. Such inspection shall be made in a manner so as not to disrupt the operations of Hospital or Contractor.

4.11 Access to and Audit of Records. Hospital 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 Ten Thousand Dollars (\$10,000), the Parties may be subject, at the request of Hospital or as part of any audit of Hospital, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three (3) years after final payment under the Agreement.

ARTICLE V. TERM AND TERMINATION

5.1 Term. This Agreement shall become effective on September 1, 2018 (the “Effective Date”), and shall continue until September 30, 2020 (the “Expiration Date”), subject to the termination provisions of this Agreement.

5.2 Termination by Hospital. Hospital shall have the right to terminate this Agreement upon the occurrence of any one or more of the following events:

- (a) breach of this Agreement by Contractor where the breach is not cured within thirty (30) calendar days after Hospital gives written notice of the breach to Contractor;
- (b) death or permanent disability of Contractor;
- (c) Contractor’s voluntary retirement from the practice of medicine;
- (d) neglect of professional duty by Contractor in a manner that violates Hospital’s policies, rules or regulations;
- (e) Contractor is unable or reasonably expected to be unable to provide the Services for any reason for a period in excess of thirty (30) consecutive days or sixty (60) days in the aggregate over any three (3) month period;
- (f) Contractor’s clinical privileges or medical staff membership at any hospital are denied, suspended, terminated, restricted, revoked or relinquished for any reason, whether voluntarily or involuntarily, temporarily or permanently, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (g) Contractor’s license to practice medicine in the State is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(h) Contractor for any reason is not a member in good standing in the “active staff” category of the Medical Staff or does not hold all clinical privileges at Hospital necessary for Contractor’s performance of the Services or Contractor is the subject of one or more investigations, proceedings or peer review or other disciplinary actions by the Medical Staff;

(i) Contractor is charged with or convicted of a criminal offense;

(j) Contractor’s performance of this Agreement, in the sole determination of Hospital, jeopardizes the mental or physical health or well-being of patients of Hospital;

(k) Contractor is debarred, suspended, excluded or otherwise ineligible to participate in any state or Federal Health Care Program or state equivalent;

(l) Contractor acts, or causes another person to act, in a manner which conflicts with or violates the Code;

(m) breach by Contractor of any HIPAA Obligation (as defined in **Exhibit 6.3**);

(n) Contractor makes an assignment for the benefit of creditors, admits in writing the inability to pay his or her debts as they mature, applies to any court for the appointment of a trustee or receiver over his or her assets, or upon commencement of any voluntary or involuntary proceedings under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution liquidation or other similar law of any jurisdiction;

(o) the insurance required to be maintained by Contractor under this Agreement is terminated, reduced below the minimum coverage requirements set forth in this Agreement, not renewed or cancelled (whether by action of the insurance company or Contractor) for any reason, and Contractor has not obtained replacement coverage as required by this Agreement prior to the effective date of such termination, reduction, non-renewal or cancellation;

(p) Contractor is rendered unable to comply with the terms of this Agreement for any reason; or

(q) upon a sale of all or substantially all assets comprising Hospital’s acute care hospital facility, any change of control in Hospital’s organization, or any change in control of its day to day operations, whether through a membership change or by management contract. Hospital shall notify Contractor in writing of such sale or change of control at least thirty (30) days prior to the closing date of any such sale or the effective date of any such change of control.

5.3 Termination by Contractor. Contractor shall have the right to terminate this Agreement upon breach of this Agreement by Hospital where the breach is not cured within thirty (30) calendar days after Contractor gives written notice of the breach to Hospital.

5.4 Termination or Modification in the Event of Government Action.

(a) If the Parties receive notice of any Government Action, the Parties shall attempt to amend this Agreement in order to comply with the Government Action.

(b) If the Parties, acting in good faith, are unable to make the amendments necessary to comply with the Government Action, or, alternatively, if either Party determines in good faith that compliance with the Government Action is impossible or infeasible, this Agreement shall terminate ten (10) calendar days after one Party notifies the other of such fact.

(c) For the purposes of this Section, “**Government Action**” shall mean any legislation, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any notice of a decision, finding, interpretation or action by any governmental or private agency, court or other third party which, in the opinion of counsel to Hospital, because of the arrangement between the Parties pursuant to this Agreement, if or when implemented, would:

- (i) revoke or jeopardize the status of any health facility license granted to Hospital or any Affiliate of Hospital;
- (ii) revoke or jeopardize the federal, state or local tax-exempt status of Hospital or any Affiliate of Hospital, or their respective tax-exempt financial obligations;
- (iii) prevent Contractor from being able to access and use the facilities of Hospital or any Affiliate of Hospital;
- (iv) constitute a violation of 42 U.S.C. Section 1395nn (commonly referred to as the Stark law) if Contractor referred patients to Hospital or any Affiliate of Hospital;
- (v) prohibit Hospital or any Affiliate of Hospital from billing for services provided to patients referred to by Contractor;
- (vi) subject Hospital or Contractor, or any Affiliate of Hospital, or any of their respective employees or agents, to civil or criminal prosecution (including any excise tax penalty under Internal Revenue Code Section 4958), on the basis of their participation in executing this Agreement or performing their respective obligations under this Agreement; or
- (vii) jeopardize Hospital’s full accreditation with any accrediting organization as Hospital designates from time to time.

(d) For the purposes of this Agreement, “**Affiliate**” shall mean any entity which, directly or indirectly, controls, is controlled by or is under common control with Hospital.

5.5 Termination without Cause. Either Party may terminate this Agreement without cause, expense or penalty, effective sixty (60) calendar days after written notice of termination is given to the other Party.

5.6 Effect of Termination or Expiration. Upon any termination or expiration of this Agreement:

(a) All rights and obligations of the Parties shall cease except: (i) those rights and obligations that have accrued and remain unsatisfied prior to the termination or expiration of this Agreement; (ii) those rights and obligations which expressly survive termination or expiration of this Agreement; and (iii) Contractor's obligation to continue to provide services to Hospital patients under Contractor's care at the time of expiration or termination of this Agreement, until the patient's course of treatment is completed or the patient is transferred to the care of another physician.

(b) Contractor shall not do anything or cause any other person to do anything that interferes with Hospital's efforts to engage any other person or entity for the provision of the Services, or interfere in any way with any relationship between Hospital and any other person or entity who may be engaged to provide the Services to Hospital.

(c) Contractor shall not have any right to a "fair hearing" or any other similar rights or procedures under the Medical Staff bylaws or otherwise.

(d) This Section 5.6 shall survive the expiration or termination for any reason of this Agreement.

5.7 Return of Property. Upon any termination or expiration of this Agreement, Contractor shall immediately return to Hospital all of Hospital's property, including Hospital's equipment, supplies, furniture, furnishings and patient records, which is in Contractor's possession or under Contractor's control.

5.8 Termination or Amendment in Response to Reduction of Government Funding. Notwithstanding any other provision of this Agreement, if Federal, State or local government terminates or reduces its funding to the County for services that are to be provided under this Agreement, County, in its sole and absolute discretion after consultation with the Contractor, may elect to terminate this Agreement by giving written notice of termination to Contractor effective immediately or on such other date as County specifies in the notice. Alternatively, County and Contractor may mutually agree to amend the Agreement in response to a reduction in Federal, State or local funding.

ARTICLE VI.

GENERAL PROVISIONS

6.1 Amendment. This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated and signed by the Parties and attached to this Agreement.

6.2 Assignment. Except for assignment by Hospital to an entity owned, controlled by, or under common control with Hospital, neither Party may assign any interest or obligation under this Agreement without the other Party's prior written consent. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns.

6.3 Compliance with HIPAA. Contractor shall comply with the obligations under the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.), as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, and all rules and regulations promulgated thereunder (collectively, "**HIPAA**," the obligations collectively referred to herein as "**HIPAA Obligations**"), as set forth in **Exhibit 6.3**. The HIPAA Obligations shall survive the expiration or termination of this Agreement for any reason.

6.4 Compliance with Laws and Accreditation. Contractor shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments (collectively, "**Laws**") applicable to Contractor, the provision of the Services, or the obligations of Contractor under this Agreement, including without limitation laws that require Contractor to disclose any economic interest or relationship with Hospital, the Emergency Medical Treatment and Active Labor Act and the rules and regulations thereunder ("**EMTALA**"), and California Health and Safety Code Section 1317 and the rules and regulations thereunder ("**Health and Safety Code §1317**"). Contractor shall perform and handle all patient transfers and reports in accordance with applicable Laws, including EMTALA, and Health and Safety Code §1317. Contractor shall take actions necessary to ensure that the Clinic is operated in accordance with: all requirements of a nationally recognized accrediting organization that Hospital designates from time to time, all applicable licensing requirements, and all other relevant requirements promulgated by any federal, state or local agency.

6.5 Compliance with Medicare Rules. To the extent required by law or regulation, Contractor shall make available, upon written request from Hospital, the Secretary of Health and Human Services, the Comptroller General of the United States, or any other duly authorized agent or representative, this Agreement and Contractor's books, documents and records. Contractor shall preserve and make available such books, documents and records for a period of ten (10) years after the end of the term of this Agreement, or the length of time required by state or federal law. If Contractor is requested to disclose books, documents or records pursuant to this Section for any purpose, Contractor shall notify Hospital of the nature and scope of such request, and Contractor shall make available, upon written request of Hospital, all such books, documents or records. Contractor shall indemnify and hold harmless Hospital if any amount of reimbursement is denied or disallowed because of Contractor's failure to comply with the obligations set forth in this Section. Such indemnity shall include, but not be limited to, the

amount of reimbursement denied, plus any interest, penalties and legal costs. This Section shall survive the expiration or termination for any reason of this Agreement.

6.6 Confidential Information.

(a) During the term of this Agreement, Contractor may have access to and become acquainted with Trade Secrets and Confidential Information of Hospital. **“Trade Secrets”** includes information and data relating to payor contracts and accounts, clients, patients, patient groups, patient lists, billing practices and procedures, business techniques and methods, strategic plans, operations and related data. **“Confidential Information”** includes Trade Secrets and any information related to the past, current or proposed operations, business or strategic plans, financial statements or reports, technology or services of Hospital or any Affiliate that Hospital discloses or otherwise makes available in any manner to Contractor, or to which Contractor may gain access in the performance of the Services under this Agreement, or which Contractor knows or has reason to know is confidential information of Hospital or any Affiliate; whether such information is disclosed orally, visually or in writing, and whether or not bearing any legend or marking indicating that such information or data is confidential. By way of example, but not limitation, Confidential Information includes any and all know-how, processes, manuals, confidential reports, procedures and methods of Hospital, any Hospital patient’s individually identifiable health information (as defined under HIPAA), and any information, records and proceedings of Hospital and/or Medical Staff committees, peer review bodies, quality committees and other committees or bodies charged with the evaluation and improvement of the quality of care. Confidential Information also includes proprietary or confidential information of any third party that may be in Hospital’s or any Affiliate’s possession.

(b) Confidential Information shall be and remain the sole property of Hospital, and shall, as applicable, be proprietary information protected under the Uniform Trade Secrets Act. Contractor shall not use any Confidential Information for any purpose not expressly permitted by this Agreement, or disclose any Confidential Information to any person or entity, without the prior written consent of Hospital. Contractor shall protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects his or her own confidential or proprietary information of a similar nature and with no less than reasonable care. All documents that Contractor prepares, or Confidential Information that might be given to Contractor in the course of providing Services under this Agreement, are the exclusive property of Hospital, and, without the prior written consent of Hospital, shall not be removed from Hospital’s premises.

(c) Contractor shall return to Hospital all Confidential Information and all copies thereof in Contractor’s possession or control, and permanently erase all electronic copies of such Confidential Information, promptly upon the written request of Hospital, or the termination or expiration of this Agreement. Contractor shall not copy, duplicate or reproduce any Confidential Information without the prior written consent of Hospital.

(d) This Section shall survive the expiration or termination of this Agreement.

6.7 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

6.8 Disclosure of Interests. Contractor shall provide to Hospital, as requested by Hospital from time to time, information sufficient to disclose any ownership, investment or compensation interest or arrangement of Contractor, or any of Contractor's immediate family members, in any entity providing "designated health services" (as such term is defined in the Stark Law (42 U.S.C. Section 1395nn) and its regulations) or any other health care services. This Section shall not impose on Hospital any disclosure or reporting requirements or obligations imposed on Contractor under any governmental program or create an assumption of such disclosure obligations by Hospital. Contractor shall have the sole responsibility to fulfill any such federal and/or state reporting requirements or obligations.

6.9 Dispute Resolution. In the event of any dispute, controversy, claim or disagreement arising out of or related to this Agreement or the acts or omissions of the Parties with respect to this Agreement (each, a "**Dispute**"), the Parties shall resolve such Dispute as follows:

(a) **Meet and Confer.** The Parties shall, as soon as reasonably practicable, but in no case more than ten (10) days after one Party gives written notice of a Dispute to the other Party (the "**Dispute Notice**"), meet and confer in good faith regarding such Dispute at such time and place as mutually agreed upon by the Parties (the "**Meet and Confer**"). The obligation to conduct a Meet and Confer pursuant to this Section does not obligate either Party to agree to any compromise or resolution of the Dispute that such Party does not determine, in its sole and absolute discretion, to be a satisfactory resolution of the Dispute. The Meet and Confer shall be considered a settlement negotiation for the purpose of all applicable Laws protecting statements, disclosures or conduct in such context, and any offer in compromise or other statements or conduct made at or in connection with any Meet and Confer shall be protected under such Laws.

(b) **Arbitration.** If any Dispute is not resolved to the mutual satisfaction of the Parties within ten (10) business days after delivery of the Dispute Notice (or such other period as may be mutually agreed upon by the Parties in writing), the Parties shall submit such Dispute to arbitration conducted by Judicial Arbitration and Mediation Services, Inc. ("**JAMS**"), or other arbitration and/or mediation services company as agreed to by the Parties, in accordance with the following rules and procedures:

- (i) Each Party may commence arbitration by giving written notice to the other Party demanding arbitration (the "**Arbitration Notice**"). The Arbitration Notice shall specify the Dispute, the particular claims and/or causes of actions alleged by the Party demanding arbitration, and the factual and legal basis in support of such claims and/or causes of action.
- (ii) The arbitration shall be conducted in the County in which the Hospital is located and in accordance with the commercial arbitration rules and procedures of JAMS (or other arbitration

company as mutually agreed to by the Parties) to the extent such rules and procedures are not inconsistent with the provisions set forth in this Section. In the event of a conflict between any rules and/or procedures of JAMS (or other arbitration company as mutually agreed to by the Parties) and the rules and/or procedures set forth in this Section, the rules and/or procedures set forth in this Section shall govern.

- (iii) The arbitration shall be conducted before a single impartial retired member of the JAMS panel of arbitrators (or panel of arbitrators from such other arbitration company as mutually agreed to by the Parties) covering the County in which the Hospital is located (the “**Panel**”). The Parties shall use their good faith efforts to agree upon a mutually acceptable arbitrator within thirty (30) days after delivery of the Arbitration Notice. If the Parties are unable to agree upon a mutually acceptable arbitrator within such time period, then each Party shall select one arbitrator from the Panel, and those arbitrators shall select a single impartial arbitrator from the Panel to serve as arbitrator of the Dispute.
- (iv) The Parties expressly waive any right to any and all discovery in connection with the arbitration; provided, however, that each Party shall have the right to conduct no more than two (2) depositions and submit one set of interrogatories with a maximum of forty (40) questions, including subparts of such questions.
- (v) The arbitration hearing shall commence within thirty (30) days after appointment of the arbitrator. The substantive internal law (and not the conflict of laws) of the State shall be applied by the arbitrator to the resolution of the Dispute, and the Evidence Code of the State shall apply to all testimony and documents submitted to the arbitrator. The arbitrator shall have no authority to amend or modify the limitation on the discovery rights of the Parties or any of the other rules and/or procedures set forth in this Section. As soon as reasonably practicable, but not later than thirty (30) days after the arbitration hearing is completed, the arbitrator shall arrive at a final decision, which shall be reduced to writing, signed by the arbitrator and mailed to each of the Parties and their respective legal counsel.
- (vi) Any Party may apply to a court of competent jurisdiction for entry and enforcement of judgment based on the arbitration award. The award of the arbitrator shall be final and binding upon the Parties without appeal or review except as permitted by the Arbitration Act of the State.

- (vii) The fees and costs of JAMS (or other arbitration company as mutually agreed to by the Parties) and the arbitrator, including any costs and expenses incurred by the arbitrator in connection with the arbitration, shall be borne equally by the Parties, unless otherwise agreed to by the Parties.
- (viii) Except as set forth in Section 6.9(b)(vii), each Party shall be responsible for the costs and expenses incurred by such Party in connection with the arbitration, including its own attorneys' fees and costs; provided, however, that the arbitrator shall require one Party to pay the costs and expenses of the prevailing Party, including attorneys' fees and costs and the fees and costs of experts and consultants, incurred in connection with the arbitration if the arbitrator determines that the claims and/or position of a Party were frivolous and without reasonable foundation.

(c) **Waiver of Injunctive or Similar Relief.** The Parties hereby waive the right to seek specific performance or any other form of injunctive or equitable relief or remedy arising out of any Dispute, except that such remedies may be utilized for purposes of enforcing this Section and sections governing Confidential Information, Compliance with HIPAA, Compliance with Laws and Accreditation and Compliance with Medicare Rules of this Agreement. Except as expressly provided herein, upon any determination by a court or by an arbitrator that a Party has breached this Agreement or improperly terminated this Agreement, the other Party shall accept monetary damages, if any, as full and complete relief and remedy, to the exclusion of specific performance or any other form of injunctive or equitable relief or remedy.

(d) **Injunctive or Similar Relief.** Notwithstanding anything to the contrary in this Section, the Parties reserve the right to seek specific performance or any other form of injunctive relief or remedy in any state or federal court located within the County in which the Hospital is located for purposes of enforcing this Section and sections governing Confidential Information, Compliance with HIPAA, Compliance with Laws and Accreditation and Compliance with Medicare Rules of this Agreement. Contractor hereby consents to the jurisdiction of any such court and to venue therein, waives any and all rights under the Laws of any other state to object to jurisdiction within the State, and consents to the service of process in any such action or proceeding, in addition to any other manner permitted by applicable Law, by compliance with the notices provision of this Agreement. The non-prevailing Party in any such action or proceeding shall pay to the prevailing Party reasonable fees and costs incurred in such action or proceeding, including attorneys' fees and costs and the fees and costs of experts and consultants. The prevailing Party shall be the Party who is entitled to recover its costs of suit (as determined by the court of competent jurisdiction), whether or not the action or proceeding proceeds to final judgment or award.

(e) **Survival.** This Section shall survive the expiration or termination of this Agreement.

6.10 Entire Agreement. This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties. No other understanding between the Parties shall be binding on them unless set forth in writing, signed and attached to this Agreement.

6.11 Exhibits. The attached exhibits, together with all documents incorporated by reference in the exhibits, form an integral part of this Agreement and are incorporated into this Agreement wherever reference is made to them to the same extent as if they were set out in full at the point at which such reference is made.

6.12 Force Majeure. Neither Party shall be liable for nonperformance or defective or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), terrorism, action of any governmental authority, civil disturbances, riots, revolutions, vandalism, accidents, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, failure of transportation infrastructure, disruption of public utilities, supply chain interruptions, information systems interruptions or failures, breakdown of machinery or strikes (or similar nonperformance, defective performance or late performance of employees, suppliers or subcontractors); provided, however, that in any such event, each Party shall use its good faith efforts to perform its duties and obligations under this Agreement.

6.13 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State.

6.14 Headings. The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

6.15 Litigation Consultation. Contractor shall not accept consulting assignments or otherwise contract, agree, or enter into any arrangement to provide expert testimony or evaluation on behalf of a plaintiff in connection with any claim against Hospital or any Affiliate named, or expected to be named as a defendant. Contractor shall not accept similar consulting assignments if (a) the defendants or anticipated defendants include a member of the medical staff of Hospital or any Affiliate, and (b) the matter relates to events that occurred at Hospital or any Affiliate; provided, however, the provisions of this Section shall not apply to situations in which Contractor served as a treating physician.

6.16 Master List. The Parties acknowledge and agree that this Agreement, together with any other contracts between Hospital and Contractor, will be included on the master list of physician contracts maintained by Hospital.

6.17 Meaning of Certain Words. Wherever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa. Unless otherwise specified: (i) "days" shall be considered "calendar days;" (ii) "months" shall be considered "calendar months;"

and (iii) “including” means “including, without limitation” in this Agreement and its exhibits and attachments.

6.18 No Conflicting Obligations. Contractor represents and warrants that the execution and delivery of this Agreement and the performance of his or her obligations hereunder do not and will not: (a) present a conflict of interest or materially interfere with the performance of Contractor’s duties under any other agreement or arrangement; or (b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice and/or lapse of time, would constitute a default) under, terminate, accelerate the performance required by, or result in a right of termination or acceleration under any of the terms, conditions or provisions of any other agreement, indebtedness, note, bond, indenture, security or pledge agreement, license, franchise, permit, or other instrument or obligation to which Contractor is a party or by which Contractor is bound. Contractor shall immediately inform Hospital of any other agreements to which Contractor is a party that may present a conflict of interest or materially interfere with performance of Contractor’s duties under this Agreement.

6.19 No Third Party Beneficiary Rights. The Parties do not intend to confer and this Agreement shall not be construed to confer any rights or benefits to any person, firm, group, corporation or entity other than the Parties.

6.20 Notices. All notices or communications required or permitted under this Agreement shall be given in writing and delivered personally or sent by United States registered or certified mail with postage prepaid and return receipt requested or by overnight delivery service (e.g., Federal Express, DHL). Notice shall be deemed given when sent, if sent as specified in this Section, or otherwise deemed given when received. In each case, notice shall be delivered or sent to:

If to Hospital, addressed to:

NATIVIDAD MEDICAL CENTER
1441 Constitution Blvd., Bldg. 300
Salinas, CA 93906
Attention: * Deputy Purchasing Agent

If to Contractor, addressed to:

RICHARD MICHAEL MOORE, M.D., APC
5188 Brian Lane
Encino, CA 91436

6.21 Participation in Federal Health Care Programs. Contractor hereby represents that he is not debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program.

6.22 Representations. Each Party represents with respect to itself that: (a) no representation or promise not expressly contained in this Agreement has been made by any other Party or by any Parties' agents, employees, representatives or attorneys; (b) this Agreement is not being entered into on the basis of, or in reliance on, any promise or representation, expressed or implied, other than such as are set forth expressly in this Agreement; and (c) Party has been represented by legal counsel of Party's own choice or has elected not to be represented by legal counsel in this matter.

6.23 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, that provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability of the remainder of this Agreement.

6.24 Statutes and Regulations. Any reference in this Agreement to any statute, regulation, ruling, or administrative order or decree shall include, and be a reference to any successor statute, regulation, ruling, or administrative order or decree.

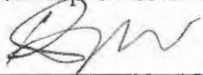
6.25 Waiver. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective, and shall apply solely to the specific instance expressly stated.

[signature page follows]

The Parties have executed this Agreement on the date first above written, and signify their agreement with duly authorized signatures.

CONTRACTOR

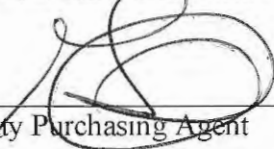
RICHARD MICHAEL MOORE, M.D., APC,
a California professional corporation



Richard Michael Moore, M.D., President

Date: 7/23, 2018

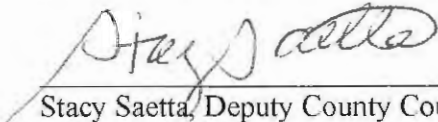
NATIVIDAD MEDICAL CENTER



Deputy Purchasing Agent

Date: 8/30, 2018

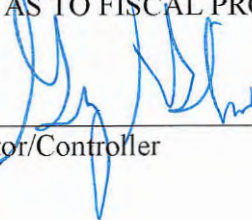
APPROVED AS TO LEGAL PROVISIONS:



Stacy Saetta, Deputy County Counsel

Date: 8/3, 2018

APPROVED AS TO FISCAL PROVISIONS:



Deputy Auditor/Controller

Date: 8/3, 2018

Exhibit 1.2

TEACHING SERVICES TO BE PROVIDED BY CONTRACTOR

Contractor shall:

1. supervise patient care in a constructive and supportive way;
2. demonstrate effective interviewing, physical examination, procedures, use of diagnostic and therapeutic interventions, and medical records documentation;
3. create a professional role model; and
4. evaluate resident performance in a meaningful, objective fashion.

Exhibit 1.3

ADDITIONAL SERVICES TO BE PROVIDED BY CONTRACTOR

Contractor shall:

1. provide teaching, educational or training services, as reasonably requested by Hospital;
2. participate in utilization review programs, as reasonably requested by Hospital;
3. participate in risk management, quality assurance and peer review programs, as reasonably requested by Hospital;
4. accept third party insured patients and referrals of patients which are made by members of the Medical Staff, subject only to the limitations of scheduling and Contractor's professional qualifications;
5. assist Hospital in monitoring and reviewing the clinical performance of health care professionals who provide services to Hospital's patients; including reviewing incident reports and patient satisfaction studies relevant to the Specialty, and assisting Hospital in implementing any necessary corrective actions to address any issues identified during the course of such review;
6. assist in monitoring the performance of those professionals who are not meeting Hospital quality and/or performance standards, including, without limitation, direct observation of the provision of care by such professionals, and in disciplining any professionals who continue poor performance, recognizing that the Hospital Board of Directors is ultimately responsible for maintaining the standards of care provided to patients;
7. assist Hospital management with all preparation for, and conduct of, any inspections and on-site surveys of Hospital conducted by governmental agencies or accrediting organizations, including those specific obligations set forth in **Attachment A**;
8. cooperate with Hospital in all litigation matters affecting Contractor or Hospital, consistent with advice from Contractor's legal counsel;
9. cooperate and comply with Hospital's policies and procedures which are pertinent to patient relations, quality assurance, scheduling, billing, collections and other administrative matters and cooperate with Hospital's efforts to bill and collect fees for services rendered to Hospital's patients. All business transactions related to the Services provided by Contractor, such as enrollment, verification and billings, shall be conducted by and in the name of Hospital; and
10. assist Hospital in developing, implementing and monitoring a program by which quality measures are reportable to Hospital with respect to the Specialty. The quality program shall include at the least those characteristics set forth in **Attachment A**.

Attachment A

ADDITIONAL OBLIGATIONS

Contractor shall participate in performance improvement activities associated with the American College of Surgeons National Surgical Quality Improvement Program (ACS NSQIP).

Exhibit 1.8

CONTRACTOR'S MONTHLY TIME REPORT



Accurately document all time in quarter hour (.25 hour) increments. Do not exceed 24 hours in a single day.
Directions and examples are located on back of timesheet.

Name:		Employee #:		Dept Name:		Cost Center:		Period Ending:		Hospital Administrations and Teaching Services										Other Admin		Non-billable Activities			Total
										00001										00009		00010			00012
										00002										00003		00004			00005
										00006										00007		00008			00009
										00011										00012		00013			00014
										00015										00016		00017			00018
										00019										00020		00021			00022
										00023										00024		00025			00026
										00027										00028		00029			00030
										00031										00032		00033			00034
										00035										00036		00037			00038
										00039										00040		00041			00042
										00043										00044		00045			00046
										00047										00048		00049			00050
										00051										00052		00053			00054
										00055										00056		00057			00058
										00059										00060		00061			00062
										00063										00064		00065			00066
										00067										00068		00069			00070
										00071										00072		00073			00074
										00075										00076		00077			00078
										00079										00080		00081			00082
										00083										00084		00085			00086
										00087										00088		00089			00090
										00091										00092		00093			00094
										00095										00096		00097			00098
										00099										00100		00101			00102
										00103										00104		00105			00106
										00107										00108		00109			00110
										00111										00112		00113			00114
										00115										00116		00117			00118
										00119										00120		00121			00122
										00123										00124		00125			00126
										00127										00128		00129			00130
										00131										00132		00133			00134
										00135										00136		00137			00138
										00139										00140		00141			00142
										00143										00144		00145			00146
										00147										00148		00149			00150
										00151										00152		00153			00154
										00155										00156		00157			00158
										00159										00160		00161			00162
										00163										00164		00165			00166
										00167										00168		00169			00170
										00171										00172		00173			00174
										00175										00176		00177			00178
										00179										00180		00181			00182
										00183										00184		00185			00186
										00187										00188		00189			00190
										00191										00192		00193			00194
										00195										00196		00197			00198
										00199										00200		00201			00202
										00203										00204		00205			00206
										00207										00208		00209			00210
										00211										00212		00213			00214
										00215										00216		00217			00218
										00219										00220		00221			00222
										00223										00224		00225			00226
										00227										00228		00229			00230
										00231										00232		00233			00234
										00235										00236		00237			00238
										00239										00240		00241			00242
										00243										00244		00245			00246
										00247										00248		00249			00250
										00251										00252		00253			00254
										00255										00256		00257			00258
										00259										00260		00261			00262
										00263										00264		00265			00266
										00267										00268		00269			00270
										00271										00272		00273			00274
										00275										00276		00277			00278
										00279										00280		00281			00282
										00283										00284		00285			00286
										00287										00288		00289			00290
										00291										00292		00293			00294
										00295										00296		00297			00298
										00299										00300		00301			00302
										00303										00304		00305			00306
										00307										00308		00309			00310
										00311										00312		00313			00314
										00315										00316		00317			00318
										00319										00320		00321			00322
										00323										00324		00325			00326
										00327										00328		00329			00330
										00331										00332		00333			00334
										00335										00336		00337			00338
										00339										00340		00341			00342
										00343										00344		00345			00346
										00347										00348		00349			00350
										00351										00352		00353			00354
										00355										00356		00357			00358
										00359										00360		00361			00362
										00363										00364		00365			00366
										00367										00368		00369			00370
										00371										00372		00373			00374
										00375										00376		00377			00378
										00379										00380		00381			00382
										00383										00384		00385			00386
										00387										00388		00389			00390
										00391										00392		00393			00394
										00395										00396		00397			00398
										00399										00400		00401			00402
										00403										00404		00405			00406
										00407										00408		00409			00410
										00411										00412		00413			00414
										00415										00416		00417			00418
										00419										00420		00421			00422
										00423										00424		00425			00426
										00427										00428		00429			00430
										00431										00432		00433			00434
										00435										00436		00437			00438
										00439										00440		00441			00442
										00443										00444		00445			00446
										00447										00448		00449			00450
										00451										00452		00453			00454
										00455										00456		00457			00458
								</																	

Exhibit 1.13

MEDICAL STAFF POLICY

Title: Practitioner Code of Conduct	Effective: 05/09 Reviewed/Revised: 08/11
Standard: MSP004-2	Approved: MEC 08/11 BOT 09/11

As a member of the Medical Staff or an Allied Health Professional (AHP) of Natividad Medical Center (NMC) (collectively Practitioners), I acknowledge that the ability of Practitioners and NMC employees to jointly deliver high quality health care depends significantly upon their ability to communicate well, collaborate effectively, and work as a team. I recognize that patients, family members, visitors, colleagues and NMC staff members must be treated in a dignified and respectful manner at all times.

POLICY

In keeping with the accepted standards of the health care profession as evidenced by the Hippocratic Oath, the Code of Ethics of the American Medical Association (AMA) and other professional societies, and the values of NMC, Practitioners are leaders in maintaining professional standards of behavior. In keeping with this responsibility to maintain professional standards of behavior at NMC, Practitioners:

1. Facilitate effective patient care by consistent, active, and cooperative participation as members of the NMC health care team.
2. Recognize the individual and independent responsibilities of all other members of the NMC health care team and their right to independently advocate on behalf of the patient.
3. Maintain respect for the dignity and sensitivities of patients and families, as well as colleagues, NMC employees, and all other health care professionals.
4. Participate in the Medical Staff quality assessment and peer review activities, and in organizational performance improvement activities.
5. Contribute to the overall educational mission of NMC.
6. Reflect positively upon the reputation of the health care profession, the Medical Staff, and NMC in their language, action, attitude, and behavior.

Behaviors of Practitioners which do not meet the professional behavior standards established in this Code of Conduct (Code) shall be referred to as Disruptive or Unprofessional Behavior. Disruptive or Unprofessional Behavior by Practitioners exhibited on the premises of NMC,

whether or not the Practitioner is on duty or functioning in his/her professional capacity, are subject to this Code.

EXAMPLES OF PROFESSIONAL BEHAVIOR

Practitioners are expected to exhibit professional behavior at NMC, consistent with this Code, as follows:

1. Be consistently available with cooperative and timely responsiveness to appropriate requests from physicians, nurses, and all other members of the NMC health care team in patient care and other professional responsibilities.
2. Provide for and communicate alternate coverage arrangements to assure the continuity and quality of care.
3. Demonstrate language, action, attitude and behavior which consistently convey to patients, families, colleagues, and all other members of the NMC health care team a sense of compassion and respect for human dignity.
4. Understand and accept individual cultural differences.
5. Maintain appropriate, timely, and legible medical record entries which enable all NMC professionals to understand and effectively participate in a cohesive plan of management to assure continuity, quality, and efficiency of care and effective post-discharge planning and follow-up.
6. Respect the right of patients, families or other designated surrogates to participate in an informed manner in decisions pertaining to patient care.
7. Treat patients and all persons functioning in any capacity within NMC with courtesy, respect, and human dignity.
8. Conduct one's practice at NMC in a manner that will facilitate timely commencement of medical/surgical procedures at NMC, including but not limited to, timely arrival at the hospital, pre-ordering all needed special equipment and/or supplies, and timely notification of required staff.

EXAMPLES OF DISRUPTIVE OR UNPROFESSIONAL BEHAVIOR

Disruptive or Unprofessional Behavior, as characterized in this Code, includes but is not limited to:

1. Misappropriation or unauthorized removal or possession of NMC owned property.
2. Falsification of medical records, including timekeeping records and other NMC documents.
3. Working under the influence of alcohol or illegal drugs.

4. Working under the influence of prescription or over-the-counter medications when use of such medications significantly affects the practitioner's level of cognitive functioning.
5. Possession, distribution, purchase, sale, transfer, transport or use of illegal drugs in the workplace.
6. Possession of dangerous or unauthorized materials such as explosives, firearms, or other weapons in the workplace.
7. Writing derogatory and/or accusatory notes in the medical record which are not necessary for the provision of quality patient care services. Concerns regarding the performance of other Practitioners or NMC employees should be reported on a NMC Quality Review Report form and submitted pursuant to NMC policy and should not be entered into the patient's medical record.
8. Harassment
 - a. Harassment is verbal or physical contact that denigrates or shows hostility or aversion toward an individual based on race, religion, color, national origin, ancestry, age, disability, marital status, gender, sexual orientation, or any other basis protected by federal, state, or local law or ordinance, and that:
 1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment, or;
 2. Has the purpose or effect of unreasonably interfering with an individual's work performance, or;
 3. Otherwise adversely affects an individual's employment opportunity.
 - b. Harassing conduct includes, but is not limited to:
 1. Epithets, slurs, negative stereotyping, threatening, intimidating, or hostile acts that relate to race, religion, color, national origin, ancestry, age, disability, marital status, gender, or sexual orientation.
 2. Written material or illustrations that denigrate or show hostility or aversion toward an individual or group because of race, religion, color, national origin, ancestry, age, disability, marital status, gender, or sexual orientation, and is placed on walls; bulletin boards, or elsewhere on NMC's premises or circulated in the workplace.
9. Physical behavior that is harassing, intimidating, or threatening, from the viewpoint of the recipient, including touching, obscene or intimidating gestures, or throwing of objects;
10. Passive behaviors, such as refusing to perform assigned tasks or to answer questions, return phone calls, or pages;

11. Language that is a reasonable adult would consider to be foul, abusive, degrading, demeaning, or threatening, such as crude comments, degrading jokes or comments, yelling or shouting at a person, or threatening violence or retribution;
12. Single incident of egregious behavior, such as an assault or other criminal act.
13. Criticism of NMC staff in front of patients, families, or other staff.

PROCEDURE

1. Any person who functions in any capacity at NMC who observes Practitioner language, action, attitude, or behavior which may be unprofessional, harassing, or disruptive to the provision of quality patient care services should document the incident on a NMC Quality Review Report form.
2. Identified incidents involving Practitioners shall be reviewed pursuant to the current Road Map for Handling Reports of Disruptive or Unprofessional Behavior or the County Sexual Harassment Policy, as determined by the nature of the behavior and the person who exhibits it.

I acknowledge that I have received and read this Practitioner Code of Conduct. I acknowledge that hospitals are required to define and address disruptive and inappropriate conduct to comply with The Joint Commission standards for accreditation. I agree to adhere to the guidelines in this Code and conduct myself in a professional manner. I further understand that failure to behave in a professional fashion may result in disciplinary actions set forth in the RoadMap for Handling Reports of Disruptive or Unprofessional Behavior or as determined by the Medical Executive Committee pursuant to the Medical Staff Bylaws.

Exhibit 1.24

COVERAGE SERVICES AND RESPONSE TIME REQUIREMENTS

Contractor shall meet the following requirements when providing Coverage Services in the Specialty, including trauma, acute care surgery and surgical critical care as well as inpatient and outpatient procedures performed in Hospital's operating rooms, under this Agreement:

1. Contractor shall provide Coverage Services along with other panel members ("**Panel Members**") in a manner that is sufficient to ensure Specialty coverage for the Hospital twenty-four (24) hours per day, seven (7) days per week, including all holidays, in accordance with the schedule developed by the trauma program director designated by Hospital (the "**Trauma Program Director**") in consultation with the Panel Members from time to time;
2. Contractor shall be in the emergency department on patient arrival, with adequate notification from the field. Contractor shall adhere to the Level II trauma center requirements regarding response times. The maximum acceptable response time is 30 minutes for Level II trauma centers. "**Response time**" means the Contractor is physically present in the trauma resuscitation room as documented by the trauma scribe on the trauma run sheet
3. Contractor shall be in the ED on patient arrival, with adequate notification from the field;
4. Contractor's presence in the trauma resuscitation room must be in compliance at least eighty percent (80%) of the time. Demonstration of the Contractor's prompt arrival for patients with appropriate activation criteria will be monitored by the Hospital's trauma Performance Improvement and Patient Safety (PIPS) program as documented by the trauma scribe on the trauma run document; and
5. Contractor shall identify himself or herself as present to the trauma scribe. It is the Contractor's sole responsibility to ensure his or her presence in the trauma room is documented by the trauma scribe on the trauma run sheet. If Contractor's presence is not documented, Contractor will be considered not to be present. Failure to meet these time restrictions may lead to immediate removal from the call panel by the Trauma Program Director.

Exhibit 2.1

COMPENSATION

1. **Coverage Stipend.** Hospital shall pay to Contractor an amount equal to Three Thousand Five Hundred Dollars (\$3,500) per diem for Coverage Services provided pursuant to this Agreement (the “**Stipend Compensation**”).

2. **Clinic Services.** Contractor shall provide Professional Services in the Clinics as requested by Hospital from time to time. In recognition of the mutual obligations of the Parties hereunder, Hospital and Contractor acknowledge that there shall be no monetary compensation to Contractor for the Professional Services furnished by Contractor to the Clinics hereunder.

3. **Non-Clinic Uninsured Patient Services.**

a) Hospital shall pay to Contractor an amount equal to then-current (as of the date of service), facility-based, Medicare Physician Fee Schedule amount for Uninsured Services (as defined below) provided by Group Physician (the “**Uninsured Patient Compensation**”). The Uninsured Patient Compensation shall be Contractor’s sole and exclusive compensation for Uninsured Services provided by Contractor pursuant to this Agreement and Contractor shall not seek further compensation from any other source. Contractor shall be paid on the CPT codes submitted and verified by Hospital professional billing office coders.

b) For purposes of this Agreement, “**Uninsured Services**” shall mean medically necessary, professional medical services that are rendered to Patients at Hospital who are not insured for medical care by any third-party payor and ineligible for federal or state medical assistance under the Medicare or Medicaid programs (collectively, the “**Uninsured Patients**”). Contractor understands and agrees that the determination of whether a patient is uninsured may not be made until sometime after the date of service. Uninsured Services do not include any Professional Services provided by Contractor to Excluded Patients.

c) Procedures with the following modifiers will be reimbursed at the Medicare allowable rate using the current established Medicare guidelines for reimbursement when using the modifier:

(i) Procedures that are or could be billed with the modifier 22 (unusual procedural services) will not be considered for additional reimbursement to be paid to Contractor; rather the procedure will be reimbursed at the Medicare allowable rate and if other modifiers are used, the procedure will be paid at the current established Medicare reimbursement rate applying Medicare guidelines for those modifiers.

(ii) If modifier 52 (reduced services) and/or 53 (discontinued services) is/are needed for billing, the percentage of the Medicare allowable rate to be paid to Contractor will be determined by the Hospital physician billing manager and the Hospital Chief Medical Officer (CMO).

(iii) Unless a code is specifically designated as an add-on code, the Medicare rules for multiple procedure guidelines shall apply (*i.e.*, the main procedure will be paid at one hundred percent (100%) and subsequent procedures will be paid at fifty percent (50%)), consistent with Medicare reimbursement guidelines for modifiers.

d) The Parties intend that Hospital will pay for Uninsured Services only if the Uninsured Patient has no means of paying for those services (*e.g.*, independent wealth, third-party payor, etc.). If it is later determined that an Uninsured Patient or a third-party payor will pay for the Uninsured Services the following shall apply:

(i) Hospital shall have the sole and exclusive right to bill, collect and own any and all fees that might be collected for Uninsured Services provided by Contractor pursuant to this Agreement. Contractor hereby grants Hospital the right to retain any and all collections received by Hospital for Contractor's Uninsured Services. In the event that Contractor receives any payment from third-party payors for Uninsured Services that Contractor furnishes pursuant to this Agreement, Contractor shall promptly turn over such payments to Hospital. Contractor shall designate Hospital as Contractor's attorney-in-fact for billing for Uninsured Services provided by Contractor pursuant to this Agreement.

(ii) For any procedure without an established RVU value and/or not listed procedure (*e.g.*, x stop), Hospital will reimburse Contractor based upon Hospital's reimbursement from a payor if Hospital has received payment from a payor. In the event no payment is received from a payor, no reimbursement will be made to Contractor.

(iii) The Parties agree to resolve any and all billing, collection and reimbursement disputes as expeditiously as possible, up to and including the dispute resolution procedure outlined in the Agreement. If a claim is disputed by a payor, Contractor will make every effort to assist the Hospital billing manager to resolve the claim. If the claim is denied by the payor, and no payment is received within twelve (12) months of the service date, the amount of the disputed claim will be adjusted (recouped) from future payments due to Contractor after the twelve (12) month period.

(iv) Hospital will adjust future invoices if Hospital is unable to recover payment for surgery/treatment due to a procedure being classified by a payor as non-payable (*e.g.*, it is considered experimental, represents non-covered services, is categorized as medically unnecessary, or is otherwise excluded from coverage), or if Contractor is found to have breached a necessary reimbursement procedure (*e.g.*, scheduling a procedure from its office and not obtaining the authorization for the procedure to be performed at Hospital). No payment will be allowed to Contractor in these circumstances. At its discretion and at its sole cost and expense, Contractor may appeal to the payor any determination that a procedure is non-payable.

e) Hospital shall pay to Contractor the Uninsured Patient Compensation, so long as Contractor submits a “**Non-Clinic Uninsured Patient Compensation Claim**”, attached hereto as **Attachment B**, with information relating to its patient encounters as follows:

- (i) It has been 90 - 180 days since the date of service(s);
- (ii) Contractor has made a reasonable effort to collect payment and has been rejected for payment by the responsible third party(ies) and/or patient(s) for the patient(s) listed below;
- (iii) Contractor has received notification from the third party(ies) and/or patient(s) that no payment will be made. Copies of denials from all payor sources are attached to this form;
- (iv) Contractor has verified that patient has not become eligible for a government sponsored program; and
- (v) Contractor has completed a 1500 billing form.

4. **Professional Liability Reimbursement.** In the event that Contractor does not purchase the professional liability insurance set forth in the Agreement, Hospital will deduct Twenty Dollars and Fifty-Two Cents (\$20.52) per 24-hour shift worked by Contractor to compensate for Hospital’s payment of professional liability insurance premiums on behalf of Contractor.

5. **Timing.** Hospital shall pay the compensation due for Coverage Services performed by Contractor after Contractor’s submission of the monthly invoice of preceding month’s activity and time report in accordance with this Agreement; provided, however, that if Contractor does not submit an invoice and time sheet within sixty (60) days of the end of the month during which Coverage Services were performed, Hospital shall not be obligated to pay Contractor for Coverage Services performed during that month. The County of Monterey Standard Payment Terms for contracts/PSAs and paying invoices is “30 days after receipt of the certified invoice in the Auditor-Controller’s Office”.

Attachment B
Non-Clinic Uninsured Patient Compensation Claim

DATE:

CLAIM TO:

Natividad Medical Center
Post Office Box 80007
Salinas, CA 93912

or

FAX:

831.755.4087

Attention: Vince Carr/Billing Office

PAY TO:

CONTRACTOR:

- ☐ It has been no more than sixty (60) days since the date of service(s)
- ☐ Contractor or Group Physician completed documentation to support the claim
- ☐ Contractor verified patient is an "Uninsured Patient"
- ☐ 1500 Form(s) for patient listed below is attached to this claim

Questions about this claim should be directed to Contractor or Contractor's Billing Office:

NAME:	PHONE:	FAX:
-------	--------	------

Date of Service	Provider Name	Patient Medical Record Number	CPT	Modifier	Medicare Carrier 0111299 Locality 99
Amount Due:					

NMC BILLING OFFICE:

Approved

- ☐ Verified patient has no payor source
- ☐ Verified dictation to support the claim
- ☐ Verified e-signature

Date: _____

Denied

- ☐ Patient has payor source _____
- ☐ Missing dictation
- ☐ Missing e-signature

Date: _____

➔ Forward Claim to Physician Services

➔ Return Claim to Contractor

Exhibit 6.3

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”), effective September 1, 2018 (“Effective Date”), is entered into by and among the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center (“Covered Entity”) and Richard Michael Moore, M.D. (“Business Associate”) (each a “Party” and collectively the “Parties”).

Business Associate provides certain services for Covered Entity (“Services”) that involve the use and disclosure of Protected Health Information that is created or received by Business Associate from or on behalf of Covered Entity (“PHI”). The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E as amended from time to time (the “Privacy Rule”), and with the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C as amended from time to time (the “Security Rule”), under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations (“HITECH”). Business Associate acknowledges that, pursuant to HITECH, 45 C.F.R. §§ 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), 164.316 (policies and procedures and documentation requirements) and 164.502 *et. seq.* apply to Business Associate in the same manner that such sections apply to Covered Entity. The additional requirements of Title XIII of HITECH contained in Public Law 111-005 that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate. The Parties are also committed to complying with the California Confidentiality of Medical Information Act, Ca. Civil Code §§ 56 *et seq.* (“CMIA”), where applicable. Business Associate acknowledges that the CMIA prohibits Business Associate from further disclosing the PHI it receives from Covered Entity where such disclosure would be violative of the CMIA. The Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 (“Red Flag Rules”). This Agreement sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information (“EPHI”), shall be handled. The Parties further acknowledge that state statutes or other laws or precedents may impose data breach notification or information security obligations, and it is their further intention that each shall comply with such laws as well as HITECH and HIPAA in the collection, handling, storage, and disclosure of personal data of patients or other personal identifying information exchanged or stored in connection with their relationship.

The Parties agree as follows:

1. DEFINITIONS

All capitalized terms used in this Agreement but not otherwise defined shall have the meaning set forth in the Privacy Rule, Security Rule and HITECH.

2. PERMITTED USES AND DISCLOSURES OF PHI

2.1 Unless otherwise limited herein, Business Associate may:

(a) use or disclose PHI to perform functions, activities or Services for, or on behalf of, Covered Entity as requested by Covered Entity from time to time, provided that such use or disclosure would not violate the Privacy or Security Rules or the standards for Business Associate Agreements set forth in 45 C.F.R. § 164.504(e), exceed the minimum necessary to accomplish the intended purpose of such use or disclosure, violate the additional requirements of HITECH contained in Public Law 111-005 that relate to privacy and security, or violate the CMIA;

(b) disclose PHI for the purposes authorized by this Agreement only: (i) to its employees, subcontractors and agents; (ii) as directed by this Agreement; or (iii) as otherwise permitted by the terms of this Agreement;

(c) use PHI in its possession to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) use PHI in its possession for proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) disclose the PHI in its possession to third parties for the proper management and administration of Business Associate to the extent and in the manner permitted under 45 C.F.R. § 164.504(e)(4)(ii); provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the persons to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(f) use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1);

(g) de-identify any PHI obtained by Business Associate under this Agreement for further use or disclosure only to the extent such de-identification is pursuant to this Agreement, and use such de-identified data in accordance with 45 C.F.R. § 164.502(d)(1).

3. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI

3.1 Responsibilities of Business Associate. With regard to its use and/or disclosure of PHI, Business Associate shall:

(a) use and/or disclose the PHI only as permitted or required by this Agreement or as otherwise Required by Law;

(b) report to the privacy officer of Covered Entity, in writing, (i) any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware, and (ii) any Breach of unsecured PHI as specified by HITECH, within two (2) days of Business Associate's determination of the occurrence of such unauthorized use and/or disclosure. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure. The notification of any Breach of unsecured PHI shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the Breach.

(c) use commercially reasonable safeguards to maintain the security of the PHI and to prevent use and/or disclosure of such PHI other than as provided herein;

(d) obtain and maintain an agreement with all of its subcontractors and agents that receive, use, or have access to, PHI pursuant to which agreement such subcontractors and agents agree to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to Business Associate pursuant to this Agreement;

(e) make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the use and/or disclosure of PHI to the Secretary for purposes of determining Covered Entity or Business Associate's compliance with the Privacy Rule;

(f) document disclosures of PHI and information related to such disclosure and, within ten (10) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528, as well as provide an accounting of disclosures, as required by HITECH, directly to an individual provided that the individual has made a request directly to Business Associate for such an accounting. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within two (2) days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) subject to Section 4.4 below, return to Covered Entity within twenty-one (21) days of the termination of this Agreement, the PHI in its possession and retain no copies, including backup copies;

(h) disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

- (i) if all or any portion of the PHI is maintained in a Designated Record Set:
 - (i) upon ten (10) days' prior written request from Covered Entity, provide access to the PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, the individual to whom such PHI relates or his or her authorized representative to meet a request by such individual under 45 C.F.R. § 164.524; and
 - (ii) upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526;
- (j) maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;
- (k) notify the Covered Entity within five (5) days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge;
- (l) maintain a formal security program materially in accordance with all applicable data security and privacy laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security

The Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

3.2 Additional Responsibilities of Business Associate with Respect to EPHI. In the event that Business Associate has access to EPHI, in addition to the other requirements set forth in this Agreement relating to PHI, Business Associate shall:

- (a) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 C.F.R. Part 164, Subpart C;
- (b) ensure that any subcontractor or agent to whom Business Associate provides any EPHI agrees in writing to implement reasonable and appropriate safeguards to protect such EPHI; and
- (c) report to the privacy officer of Covered Entity, in writing, any Security Incident involving EPHI of which Business Associate becomes aware within two (2) days of Business Associate's discovery of such Security Incident. For purposes of this Section, a Security Incident shall mean (consistent with the definition set forth at 45 C.F.R.

§ 164.304), the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure.

3.3 Responsibilities of Covered Entity. Covered Entity shall, with respect to Business Associate:

(a) provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) notify Business Associate of any limitations in the Notice pursuant to 45 C.F.R.

§ 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI;

(c) notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's use or disclosure of PHI;

(d) notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the use or disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

(e) notify Business Associate, in writing and in a timely manner, of any restrictions on use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

4. TERMS AND TERMINATION

4.1 Term. This Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Article 4. Certain provisions and requirements of this Agreement shall survive its expiration or other termination as set forth in Section 5.1 herein.

4.2 Termination. Either Covered Entity or Business Associate may terminate this Agreement and any related agreements if the terminating Party determines in good faith that the terminated Party has breached a material term of this Agreement; provided, however, that no Party may terminate this Agreement if the breaching Party cures such breach to the reasonable satisfaction of the terminating Party within thirty (30) days after the breaching Party's receipt of written notice of such breach.

4.3 Automatic Termination. This Agreement shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

4.4 Effect of Termination. Upon termination or expiration of this Agreement for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(I) if, and to the extent that, it is feasible to do so. Prior to doing so, Business Associate shall recover any PHI in the possession of its subcontractors or agents. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall provide Covered Entity a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its subcontractors or agents. Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to any PHI retained after the termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed.

5. MISCELLANEOUS

5.1 Survival. The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 4.4, 5.1, 5.6, and 5.7, and Section 2.1 (solely with respect to PHI that Business Associate retains in accordance with Section 4.4 because it is not feasible to return or destroy such PHI), shall survive termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this Agreement, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

5.2 Amendments; Waiver. This Agreement may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of the HIPAA, HITECH or Red Flag Rules is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to the revised obligations. Further, no provision of this Agreement shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

5.3 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

5.4 Notices. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:

Richard Michael Moore, M.D., APC

5188 Brian Lane

Encino, CA 91436

Attn: _____

Phone: _____

Fax: _____

If to Covered Entity, to:

Natividad Medical Center

Compliance Officer

1441 Constitution Blvd

Salinas, CA 93906

Phone: 831.755.4111

Fax: 831.757.2592

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.


5.5 Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

5.6 Choice of Law; Interpretation. This Agreement shall be governed by the laws of the State of California; as provided, however, that any ambiguities in this Agreement shall be resolved in a manner that allows Business Associate to comply with the Privacy Rule, and, if applicable, the Security Rule and the CMIA.

5.7 Indemnification. Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter County), its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage, including the County's reasonable cost of providing notification of and of mitigating any acquisition, access, use or disclosure of PHI in a manner not permitted by this BAA, arising out of, or in connection with, performance of this BAA by Contractor and/or its agents, members, employees, or sub-contractors, excepting only loss, injury, cost, expense, penalty or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this BAA to provide the broadest possible indemnification for the County. Contractor shall reimburse the County for all costs, attorneys' fees, expenses, and liabilities incurred by the County with respect to any investigation, enforcement proceeding or litigation in which Contractor is obligated to indemnify, defend, and hold harmless the County under this BAA. This provision is in addition to and independent of any indemnification provision in any related or other agreement between the Covered Entity and the Business Associate.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf as of the Effective Date.

BUSINESS ASSOCIATE

By: RICHARD MICHAEL MOORE 

Print Name: RICHARD MICHAEL MOORE

Print Title: PRESIDENT

Date: 7/23/18

**COUNTY OF MONTEREY, ON BEHALF OF
NATIVIDAD MEDICAL CENTER**

By: 

Print Name: GARY GRAY DO

Print Title: CEO

Date: 8/30/18



Monterey County

Item No.29

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 22-175

September 27, 2022

Introduced: 9/13/2022

Current Status: Health Department -
Consent

Version: 1

Matter Type: BoS Resolution

Adopt a Resolution to:

Amend Article I.b. - Public Health Bureau of the Monterey County Master Fee Resolution effective November 1, 2022, to adjust fees pursuant to the attached Fee Schedule relating to services provided by the Health Department's Administration and Public Health Bureaus - Sexual Assault Response Team (SART) Fee Schedule (Penal Code Section 13823.95) and Research/Evaluation and Information Technology Fee Schedule.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a Resolution to:

Amend Article I.b. - Public Health Bureau of the Monterey County Master Fee Resolution effective November 1, 2022, to adjust fees pursuant to the attached Fee Schedule relating to services provided by the Health Department's Administration and Public Health Bureaus - Sexual Assault Response Team (SART) Fee Schedule (Penal Code Section 13823.95) and Research/Evaluation and Information Technology Fee Schedule.

SUMMARY:

The Monterey County Health Department's Administration and Public Health Bureaus are requesting approval of the proposed fee adjustment to the Public Health Bureau's Master Fee schedule, Article I.b., for SART and research and evaluation services. The revised SART fees were approved by the Monterey County Chief Law Enforcement Officer Association (MCCLEOA) in an effort to assure the viability of the Monterey County's Sexual Assault Response Team (SART) Program. The Research/Evaluation and Information Technology services provided by the Health Department's Administration Bureau were updated based on increased cost of performing services. The revised fees were updated to more closely reflect, while still not exceeding, the actual and reasonable cost of services and benefits provided to the public by the Health Department's Administration and Public Health Bureaus.

DISCUSSION:

The fee adjustment increases are recommended in the following categories:

- Sexual Assault Response Team (SART) Fee Schedule
- The Research/Evaluation and Information Technology Fee Schedule

The County of Monterey Health Department (County) has operated the SART Program since July 1, 2007. A revision to the Fee Schedule was approved and became effective on August 28, 2020. Since

2020, no adjustments have been made to the SART fee schedule. Pursuant to Penal Code Section 13823.95, the County will charge local Law Enforcement agencies in order to recover a portion of the cost associated with performing victim forensic examinations and testifying in court at their request; and Law Enforcement may seek reimbursement to offset the cost of conducting medical evidentiary examinations for victims of sexual assault.

More recently, the California Office of Emergency Services (OES) will reimburse Law Enforcement to offset the cost of medical evidentiary examinations as follows:

- The actual cost of the examination up to \$911 for victims that are undecided at the time of an examination, whether to report the assault to Law Enforcement.
 - Examinations must have occurred on, or after, October 1, 2020.
- The actual cost of the examination up to \$1,127 for victims that have determined, at the time of the examination, to report the assault to Law Enforcement, to the extent funds are available.
 - Examinations must have occurred, on or after July 1, 2021.

The County requests that existing fees be amended as follows: Victim Examination SART Program Service Fee increase from \$925 per exam to \$2,052 per exam so as long as OES reimburses the Victim Examination Fee, and if the OES reimbursement is no longer available based on lack of funding, the cost per exam will revert back to \$925 per exam. The Annual Retainer “Readiness Participation” Fee of \$2,000 be credited to the Law Enforcement Agency for any SART exams performed, but if no SART exams are performed then the \$2,000 stays with the County SART Program.

The Research/Evaluation and Information Technology Fee provides epidemiological consulting services to local agencies. Services include health outcomes study design, coordination, and management; bio statistical analysis; spatial analysis; grant development; and program evaluation. The proposed fees are for services provided by subject matter experts who work with agencies to build local capacity and foster collaborative relationships.

The documents in support of the fee adjustment recommended herein are attached hereto. They reflect both increases and decreases based on the actual current costs of the indicated services. By definition, the changes to these charges are not a “tax” and are exempt from voter approval pursuant to Article XIII C section 1(e)(1)-(3) and (5) of the California Constitution (Prop. 26; charges imposed for specific benefit conferred/privilege/service or product, reasonable regulatory costs provided or granted to the payor, and/or fines and/or penalties). As such, they reflect no more than the actual cost of the service/benefit received by the payor.

A copy of the Proposed Resolution and the Proposed fee schedule (in two formats: comparison to current and prior year amounts if applicable (changes in strikeouts at the base of page one, and clean version) are attached to this report and on file with the Clerk of the Board.

This work supports the MCHD 2018-2022 Strategic Plan Goals: 1. Empower the community to improve health; 2. Enhance public health and safety through prevention; and 3. Ensure access to

culturally and linguistically appropriate, customer-friendly, quality health services. Additionally, this work supports three of the ten essential public health services: inform, educate, and empower people about health issues; link people to needed personal health services and assure the provision of health care when otherwise unavailable; and assure competent public and personal health care workforce.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and Auditor-Controller have reviewed and approved this Agreement as to legal form and fiscal provisions, respectively.

FINANCING:

The recommended fee adjustment does not exceed actual costs for providing these services. As such, the fees represent a charge imposed for the specific service provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the County for providing the service. Anticipated revenues resulting from the proposed fee adjustments are included in the Fiscal Year (FY) 2022-23 Adopted Budget and Requested Budgets for the years out. The proposed fees will offset actual and reasonable costs of services and benefits provided to the public by the Health Department's Administration and Public Health Bureau.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Juanita Sanders, Management Analyst II, 755-5494

Approved by:

Date: _____
Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachments:

Resolution Amendment

Proposed Article I.b. Fee Schedule (clean; effective November 1, 2022)

Proposed Article I.b. Fee Schedule (previous, current and proposed fees shown for comparison)

Fee Schedule

Board Resolution



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 22-175

September 27, 2022

Introduced: 9/13/2022

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

Adopt a Resolution to:

Amend Article I.b. - Public Health Bureau of the Monterey County Master Fee Resolution effective November 1, 2022, to adjust fees pursuant to the attached Fee Schedule relating to services provided by the Health Department's Administration and Public Health Bureaus - Sexual Assault Response Team (SART) Fee Schedule (Penal Code Section 13823.95) and Research/Evaluation and Information Technology Fee Schedule.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a Resolution to:

Amend Article I.b. - Public Health Bureau of the Monterey County Master Fee Resolution effective November 1, 2022, to adjust fees pursuant to the attached Fee Schedule relating to services provided by the Health Department's Administration and Public Health Bureaus - Sexual Assault Response Team (SART) Fee Schedule (Penal Code Section 13823.95) and Research/Evaluation and Information Technology Fee Schedule.

SUMMARY:

The Monterey County Health Department's Administration and Public Health Bureaus are requesting approval of the proposed fee adjustment to the Public Health Bureau's Master Fee schedule, Article I.b., for SART and research and evaluation services. The revised SART fees were approved by the Monterey County Chief Law Enforcement Officer Association (MCCLEOA) in an effort to assure the viability of the Monterey County's Sexual Assault Response Team (SART) Program. The Research/Evaluation and Information Technology services provided by the Health Department's Administration Bureau were updated based on increased cost of performing services. The revised fees were updated to more closely reflect, while still not exceeding, the actual and reasonable cost of services and benefits provided to the public by the Health Department's Administration and Public Health Bureaus.

DISCUSSION:

The fee adjustment increases are recommended in the following categories:

- Sexual Assault Response Team (SART) Fee Schedule
- The Research/Evaluation and Information Technology Fee Schedule

The County of Monterey Health Department (County) has operated the SART Program since July 1, 2007. A revision to the Fee Schedule was approved and became effective on August 28, 2020. Since

2020, no adjustments have been made to the SART fee schedule. Pursuant to Penal Code Section 13823.95, the County will charge local Law Enforcement agencies in order to recover a portion of the cost associated with performing victim forensic examinations and testifying in court at their request; and Law Enforcement may seek reimbursement to offset the cost of conducting medical evidentiary examinations for victims of sexual assault.

More recently, the California Office of Emergency Services (OES) will reimburse Law Enforcement to offset the cost of medical evidentiary examinations as follows:

- The actual cost of the examination up to \$911 for victims that are undecided at the time of an examination, whether to report the assault to Law Enforcement.
 - Examinations must have occurred on, or after, October 1, 2020.
- The actual cost of the examination up to \$1,127 for victims that have determined, at the time of the examination, to report the assault to Law Enforcement, to the extent funds are available.
 - Examinations must have occurred, on or after July 1, 2021.

The County requests that existing fees be amended as follows: Victim Examination SART Program Service Fee increase from \$925 per exam to \$2,052 per exam so as long as OES reimburses the Victim Examination Fee, and if the OES reimbursement is no longer available based on lack of funding, the cost per exam will revert back to \$925 per exam. The Annual Retainer “Readiness Participation” Fee of \$2,000 be credited to the Law Enforcement Agency for any SART exams performed, but if no SART exams are performed then the \$2,000 stays with the County SART Program.

The Research/Evaluation and Information Technology Fee provides epidemiological consulting services to local agencies. Services include health outcomes study design, coordination, and management; bio statistical analysis; spatial analysis; grant development; and program evaluation. The proposed fees are for services provided by subject matter experts who work with agencies to build local capacity and foster collaborative relationships.

The documents in support of the fee adjustment recommended herein are attached hereto. They reflect both increases and decreases based on the actual current costs of the indicated services. By definition, the changes to these charges are not a “tax” and are exempt from voter approval pursuant to Article XIII C section 1(e)(1)-(3) and (5) of the California Constitution (Prop. 26; charges imposed for specific benefit conferred/privilege/service or product, reasonable regulatory costs provided or granted to the payor, and/or fines and/or penalties). As such, they reflect no more than the actual cost of the service/benefit received by the payor.

A copy of the Proposed Resolution and the Proposed fee schedule (in two formats: comparison to current and prior year amounts if applicable (changes in strikeouts at the base of page one, and clean version) are attached to this report and on file with the Clerk of the Board.

This work supports the MCHD 2018-2022 Strategic Plan Goals: 1. Empower the community to improve health; 2. Enhance public health and safety through prevention; and 3. Ensure access to

culturally and linguistically appropriate, customer-friendly, quality health services. Additionally, this work supports three of the ten essential public health services: inform, educate, and empower people about health issues; link people to needed personal health services and assure the provision of health care when otherwise unavailable; and assure competent public and personal health care workforce.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and Auditor-Controller have reviewed and approved this Agreement as to legal form and fiscal provisions, respectively.

FINANCING:

The recommended fee adjustment does not exceed actual costs for providing these services. As such, the fees represent a charge imposed for the specific service provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the County for providing the service. Anticipated revenues resulting from the proposed fee adjustments are included in the Fiscal Year (FY) 2022-23 Adopted Budget and Requested Budgets for the years out. The proposed fees will offset actual and reasonable costs of services and benefits provided to the public by the Health Department's Administration and Public Health Bureau.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

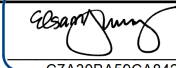
- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Juanita Sanders, Management Analyst II, 755-5494

Approved by:

Legistar File Number: RES 22-175

DocuSigned by:



Date: 9/20/2022 | 9:37 AM PDT

C7A30BA59CA8423...

Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachments:

Resolution Amendment

Proposed Article I.b. Fee Schedule (clean; effective November 1, 2022)

Proposed Article I.b. Fee Schedule (previous, current and proposed fees shown for comparison)

Fee Schedule

Board Resolution

**Before the Board of Supervisors In and For The
County of Monterey, State of California**

Resolution No. _____

Adopt a Resolution to Amend Article I.b.)
of the Monterey County Master Fee)
Resolution effective November 1, 2022,)
relating to the Public Health Bureau's fees.)

THE MONTEREY COUNTY BOARD OF SUPERVISORS FINDS:

- A. Section 1.40.010 of Chapter 1.40 of Monterey County Code provides that all fees, penalties, refunds, reimbursements and charges of any kind by the County may be specified in the Monterey County Fee Resolution.
- B. The Public Health Bureau of the Monterey County Health Department is proposing fee adjustments to the Public Health Bureau's Master Fee schedule, Article I.b., to more closely reflect, while still not exceeding, the actual and reasonable costs of services and benefits provided to the public by Public Health.
- C. Pursuant to Penal Code Section 13823.95, the County will charge local Law Enforcement agencies in order to recover a portion of the cost associated with performing victim forensic examinations and testifying in court at their request; and Law Enforcement may seek reimbursement to offset the cost of conducting medical evidentiary examinations for victims of sexual assault.
- D. Any and all adjustments to fees for services reflect no more than the actual and reasonable cost of the service or benefit received by the payor and burdened on the County. Any discount applicable to these surcharges have a minimum impact on the departmental budget and implementation of that discount does not result in increased fees or costs for other patrons.
- E. By definition, these charges are not a 'tax' and are exempt from voter approval pursuant to Article XIII C section 1(e)(1)-(3) of the California Constitution (Prop. 26; charges imposed for specific benefit conferred/privilege/service or product, and/or reasonable regulatory costs provided or granted to the payer).

THE MONTEREY COUNTY BOARD OF SUPERVISORS RESOLVES:

- 1. Article I.b. of the Monterey County Fee Resolution is amended, and the fees of the Public Health Bureau of the Monterey County Health Department set forth in the attachment hereto are hereby adopted.
- 2. To the extent, the Article 1.b fees hereby adopted differ from the previously adopted fees for the specified services, the newly adopted fees supersede the previously adopted fees.

3. The effective date of the fees approved in this Resolution is November 1, 2022.

PASSED AND ADOPTED on this _____ day of _____ 2022 by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, 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 Minute Book_____ for the meeting on_____.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy

**Before the Board of Supervisors In and For The
County of Monterey, State of California**

Resolution No. _____
Adopt a Resolution to Amend Article I.b.)
of the Monterey County Master Fee)
Resolution effective November 1, 2022,)
relating to the Public Health Bureau's fees.)

THE MONTEREY COUNTY BOARD OF SUPERVISORS FINDS:

- A. Section 1.40.010 of Chapter 1.40 of Monterey County Code provides that all fees, penalties, refunds, reimbursements and charges of any kind by the County may be specified in the Monterey County Fee Resolution.
- B. The Public Health Bureau of the Monterey County Health Department is proposing fee adjustments to the Public Health Bureau's Master Fee schedule, Article I.b., to more closely reflect, while still not exceeding, the actual and reasonable costs of services and benefits provided to the public by Public Health.
- C. Pursuant to Penal Code Section 13823.95, the County will charge local Law Enforcement agencies in order to recover a portion of the cost associated with performing victim forensic examinations and testifying in court at their request; and Law Enforcement may seek reimbursement to offset the cost of conducting medical evidentiary examinations for victims of sexual assault.
- D. Any and all adjustments to fees for services reflect no more than the actual and reasonable cost of the service or benefit received by the payor and burdened on the County. Any discount applicable to these surcharges have a minimum impact on the departmental budget and implementation of that discount does not result in increased fees or costs for other patrons.
- E. By definition, these charges are not a 'tax' and are exempt from voter approval pursuant to Article XIII C section 1(e)(1)-(3) of the California Constitution (Prop. 26; charges imposed for specific benefit conferred/privilege/service or product, and/or reasonable regulatory costs provided or granted to the payer).

THE MONTEREY COUNTY BOARD OF SUPERVISORS RESOLVES:

- 1. Article I.b. of the Monterey County Fee Resolution is amended, and the fees of the Public Health Bureau of the Monterey County Health Department set forth in the attachment hereto are hereby adopted.
- 2. To the extent, the Article 1.b fees hereby adopted differ from the previously adopted fees for the specified services, the newly adopted fees supersede the previously adopted fees.

3. The effective date of the fees approved in this Resolution is November 1, 2022.

PASSED AND ADOPTED on this _____ day of _____ 2022 by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, 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 Minute Book_____ for the meeting on_____.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By_____ Deputy

ARTICLE I.B
COUNTY OF MONTEREY HEALTH DEPARTMENT
SCHEDULE OF FEES AND CHARGES
Article I.B - Public Health Bureau

CATEGORY/SERVICE/DESCRIPTION	FEE	PER
SEXUAL ASSAULT RESPONSE TEAM (SART) FEE SCHEDULE (Penal Code section 13823.95)		
<i>SERVICE PROVIDED</i>	FEE	PER
1. Victim Examination including photography, SART Program Service Charge * <i>Current fee contingent upon reimbursement from OES.</i> * <i>If OES refuses or stops reimbursement, the cost reverts back to original fee of \$925</i>	2,052.00	Each
2. Suspect Examination including photography, SART Program Service Charge	1,497.00	Each
3. Non-Investigative Report (NIR)	2,052.00	Each
4. Readiness Retainer Fee (per participating law enforcement agency/fiscal year) * <i>Law enforcement agencies who pay will be credited this fee if any SART exams are performed.</i> * <i>If no SART exams are performed, agency annual fee remains with the County SART program.</i>	2,000.00	Each
5. Testimony for non-participating Law Enforcement Agency (Half Day)	720.00	Each
6. Testimony for non-participating Law Enforcement Agency (Full Day)	1,440.00	Each
RESEARCH/EVALUATION AND INFORMATION TECHNOLOGY FEE		
<i>CATEGORY/SERVICE DESCRIPTION</i>	FEE	PER
1. Grant proposal development and preparation	130.00	Each
2. Contract or agreement preparation	142.00	Each
3. Policy development, draft policy language and technical assistance (2 hr. min)	146.00	Each
4. Research, Evaluation, and Assessment	129.00	Each
5. Publication or report development and/or review (including data/fact checking)	129.00	Each
6. Data collection, extraction, statistical analysis, and/or interpretation – basic	114.00	Each
7. Data collection, extraction, statistical analysis, and/or interpretation – advanced (2 hr. min)	118.00	Each
8. Spatial analysis and/or mapping (2 hr. min)	124.00	Each
9. Database cleaning and management	127.00	Each

ARTICLE I.B
COUNTY OF MONTEREY HEALTH DEPARTMENT
SCHEDULE OF FEES AND CHARGES
Article I.B - Public Health Bureau

CATEGORY/SERVICE/DESCRIPTION	FEE	PER
SEXUAL ASSAULT RESPONSE TEAM (SART) FEE SCHEDULE (Penal Code section 13823.95)		
SERVICE PROVIDED	FEE	
1. Victim Examination including photography, SART Program Service Charge <i>*Current fee contingent upon reimbursement from OES. *If OES refuses or stops reimbursement, the cost reverts back to original fee of \$925</i>	925.00 2,052.00	Each
2. Suspect Examination including photography, SART Program Service Charge	675.00 1,497.00	Each
3. Non-Investigative Report (NIR)	925.00 2,052.00	Each
4. Readiness Retainer Fee (per participating law enforcement agency/fiscal year) <i>*Law enforcement agencies who pay will be credited this fee if any SART exams are performed. *If no SART exams are performed, agency annual fee remains with the County SART program.</i>	2,000.00	Each
5. Testimony for non-participating Law Enforcement Agency (Half Day)	665.00 720.00	Each
6. Testimony for non-participating Law Enforcement Agency (Full Day)	1,330.00 1,440.00	Each
RESEARCH/EVALUATION AND INFORMATION TECHNOLOGY FEE		
CATEGORY/SERVICE DESCRIPTION	FEE	PER
1. Grant proposal development and preparation	125.00 130.00	Each
2. Contract or agreement preparation	134.00 142.00	Each
3. Policy development, draft policy language and technical assistance (2 hr. min)	137.00 146.00	Each
4. Research, Evaluation, and Assessment	119.00 129.00	Each
5. Publication or report development and/or review (including data/fact checking)	120.00 129.00	Each
6. Data collection, extraction, statistical analysis, and/or interpretation – basic	104.00 114.00	Each
7. Data collection, extraction, statistical analysis, and/or interpretation – advanced (2 hr. min)	107.00 118.00	Each
8. Spatial analysis and/or mapping (2 hr. min)	112.00 124.00	Each
9. Database cleaning and management	118.00 127.00	Each

**Health Department
Research/Evaluation and Information Technology
Fee Study
FY 2022-23**

Legal Authority: N/A

Test Name: Grant proposal development and preparation

Description of Service: Grant proposal development and preparation

Volume: Approximate annual total: N/A

Time to Perform: 1.05 hours

Cost to Perform:	Classification	Total S&B per Hour	Overhead	Fully Loaded Cost per Hour	Hours	Total Cost
	Management Analyst II	\$ 85.26	\$ 33.46	\$ 118.72	-	\$ -
	Management Analyst III	\$ 96.38	\$ 37.82	\$ 134.20	0.70	\$ 93.94
	Public Health Program Manager II	\$ 112.92	\$ 44.31	\$ 157.23	0.10	\$ 15.72
	Public Health Program Manager II	\$ 107.34	\$ 42.12	\$ 149.46	0.05	\$ 7.47
	Public Health Epidemiologist II	\$ 80.59	\$ 31.62	\$ 112.21		\$ -
	Chronic Disease Prevention Coordinator	\$ 78.22	\$ 30.69	\$ 108.91		\$ -
	Chronic Disease Prevention Specialist II	\$ 71.68	\$ 28.13	\$ 99.81	0.20	\$ 19.96
				Total	1.05	\$ 137.09

Total Annual Cost:	N/A	
Current Revenue:	\$ -	N/A
Unmet Cost:	N/A	N/A

Current Fee: \$ 125.00

Proposed Fee: \$ 130.00

Proposed Cost Recovery N/A

**Health Department
Research/Evaluation and Information Technology
Fee Study
FY 2022-23**

Legal Authority: N/A

Test Name: Contract or agreement preparation

Description of Service: Contract or agreement preparation

Volume: Approximate annual total: N/A

Time to Perform: 1.05 hours

Cost to Perform:	Classification	Total S&B per Hour	Overhead	Fully Loaded Cost per Hour	Hours	Total Cost
	Management Analyst II	\$ 85.26	\$ 33.46	\$ 118.72	-	\$ -
	Management Analyst III	\$ 96.38	\$ 37.82	\$ 134.20	0.70	\$ 93.94
	Public Health Program Manager II	\$ 112.92	\$ 44.31	\$ 157.23	0.30	\$ 47.17
	Public Health Program Manager II	\$ 107.34	\$ 42.12	\$ 149.46	0.05	\$ 7.47
	Public Health Epidemiologist II	\$ 80.59	\$ 31.62	\$ 112.21	-	\$ -
	Chronic Disease Prevention Coordinator	\$ 78.22	\$ 30.69	\$ 108.91	-	\$ -
	Chronic Disease Prevention Specialist II	\$ 71.68	\$ 28.13	\$ 99.81	-	\$ -
	Total				1.05	\$ 148.58

Total Annual Cost:	N/A	
Current Revenue:	\$ -	N/A
Unmet Cost:	N/A	N/A

Current Fee: \$ 134.00

Proposed Fee: \$ 142.00

Proposed Cost Recover N/A

**Health Department
Research/Evaluation and Information Technology
Fee Study
FY 2022-23**

Legal Authority: N/A

Test Name: Policy development, draft policy language and technical assistance (2 hr. min)

Description of Service: Policy development, draft policy language and technical assistance (2 hr. min)

Volume: Approximate annual total: N/A

Time to Perform: 1.00 hours

Cost to Perform:	Classification	Total S&B per Hour	Overhead	Fully Loaded Cost per Hour	Hours	Total Cost
	Management Analyst II	\$ 85.26	\$ 33.46	\$ 118.72	-	\$ -
	Management Analyst III	\$ 96.38	\$ 37.82	\$ 134.20	0.50	\$ 67.10
	Public Health Program Manager II	\$ 112.92	\$ 44.31	\$ 157.23	0.50	\$ 78.62
	Public Health Program Manager II	\$ 107.34	\$ 42.12	\$ 149.46	-	\$ -
	Public Health Epidemiologist II	\$ 80.59	\$ 31.62	\$ 112.21	-	\$ -
	Chronic Disease Prevention Coordinator	\$ 78.22	\$ 30.69	\$ 108.91	-	\$ -
	Chronic Disease Prevention Specialist II	\$ 71.68	\$ 28.13	\$ 99.81	-	\$ -
				Total	1.00	\$ 145.72

Total Annual Cost:	N/A	
Current Revenue:	\$ -	N/A
Unmet Cost:	N/A	N/A

Current Fee: \$ 137.00

Proposed Fee: \$ 146.00

Proposed Cost Recover N/A

**Health Department
Research/Evaluation and Information Technology
Fee Study
FY 2022-23**

Legal Authority: N/A

Test Name: Research, evaluation and assessment

Description of Service: Research, evaluation and assessment

Volume: Approximate annual total: N/A

Time to Perform: 1.00 hours

Cost to Perform:	Classification	Total S&B per Hour	Overhead	Fully Loaded Cost per Hour	Hours	Total Cost
	Management Analyst II	\$ 85.26	\$ 33.46	\$ 118.72	-	\$ -
	Management Analyst III	\$ 96.38	\$ 37.82	\$ 134.20	0.20	\$ 26.84
	Public Health Program Manager II	\$ 112.92	\$ 44.31	\$ 157.23	0.30	\$ 47.17
	Public Health Program Manager II	\$ 107.34	\$ 42.12	\$ 149.46	0.05	\$ 7.47
	Public Health Epidemiologist II	\$ 80.59	\$ 31.62	\$ 112.21	0.25	\$ 28.05
	Chronic Disease Prevention Coordinator	\$ 78.22	\$ 30.69	\$ 108.91	-	\$ -
	Chronic Disease Prevention Specialist II	\$ 71.68	\$ 28.13	\$ 99.81	0.20	\$ 19.96
				Total	1.00	\$ 129.49

Total Annual Cost:	N/A	
Current Revenue:	\$ -	N/A
Unmet Cost:	N/A	N/A

Current Fee: \$ 119.00

Proposed Fee: \$ 129.00

Proposed Cost Recovery N/A

**Health Department
Research/Evaluation and Information Technology
Fee Study
FY 2022-23**

Legal Authority: N/A

Test Name: Publication or report development and/or review (including data/fact checking)

Description of Service: Publication or report development and/or review (including data/fact checking)

Volume: Approximate annual total: N/A

Time to Perform: 1.05 hours

Cost to Perform:	Classification	Total S&B per Hour	Overhead	Fully Loaded Cost per Hour	Hours	Total Cost
	Management Analyst II	\$ 85.26	\$ 33.46	\$ 118.72	-	\$ -
	Management Analyst III	\$ 96.38	\$ 37.82	\$ 134.20	0.30	\$ 40.26
	Public Health Program Manager II	\$ 112.92	\$ 44.31	\$ 157.23	0.25	\$ 39.31
	Public Health Program Manager II	\$ 107.34	\$ 42.12	\$ 149.46	0.05	\$ 7.47
	Public Health Epidemiologist II	\$ 80.59	\$ 31.62	\$ 112.21	0.20	\$ 22.44
	Chronic Disease Prevention Coordinator	\$ 78.22	\$ 30.69	\$ 108.91	0.10	\$ 10.89
	Chronic Disease Prevention Specialist II	\$ 71.68	\$ 28.13	\$ 99.81	0.15	\$ 14.97
				Total	1.05	\$ 135.34

Total Annual Cost:	N/A	
Current Revenue:	\$ -	N/A
Unmet Cost:	N/A	N/A

Current Fee: \$ 120.00

Proposed Fee: \$ 129.00

Proposed Cost Recovery: N/A

**Health Department
Research/Evaluation and Information Technology
Fee Study
FY 2022-23**

Legal Authority: N/A

Test Name: Data collection, extraction, statistical analysis, and/or interpretation - basic

Description of Service: Data collection, extraction, statistical analysis, and/or interpretation - basic

Volume: Approximate annual total: N/A

Time to Perform: 1.10 hours

Cost to Perform:	Classification	Total S&B per Hour	Overhead	Fully Loaded Cost per Hour	Hours	Total Cost
	Management Analyst II	\$ 85.26	\$ 33.46	\$ 118.72	-	\$ -
	Management Analyst III	\$ 96.38	\$ 37.82	\$ 134.20	0.10	\$ 13.42
	Public Health Program Manager II	\$ 112.92	\$ 44.31	\$ 157.23	-	\$ -
	Public Health Program Manager II	\$ 107.34	\$ 42.12	\$ 149.46	0.10	\$ 14.95
	Public Health Epidemiologist II	\$ 80.59	\$ 31.62	\$ 112.21	0.30	\$ 33.66
	Chronic Disease Prevention Coordinator	\$ 78.22	\$ 30.69	\$ 108.91	0.30	\$ 32.67
	Chronic Disease Prevention Specialist II	\$ 71.68	\$ 28.13	\$ 99.81	0.30	\$ 29.94
				Total	1.10	\$ 124.64

Total Annual Cost:	N/A	
Current Revenue:	\$ -	N/A
Unmet Cost:	N/A	N/A

Current Fee: \$ 104.00

Proposed Fee: \$ 114.00

Proposed Cost Recovery: N/A

**Health Department
Research/Evaluation and Information Technology
Fee Study
FY 2022-23**

Legal Authority: N/A

Test Name: Data collection, extraction, statistical analysis, and/or interpretation advanced (2 hr. min)

Description of Service: Data collection, extraction, statistical analysis, and/or interpretation - advanced (2 hr. min)

Volume: Approximate annual total: N/A

Time to Perform: 1.20 hours

Cost to Perform:	Classification	Total S&B per Hour	Overhead	Fully Loaded Cost per Hour	Hours	Total Cost
	Management Analyst II	\$ 85.26	\$ 33.46	\$ 118.72	-	\$ -
	Management Analyst III	\$ 96.38	\$ 37.82	\$ 134.20	0.10	\$ 13.42
	Public Health Program Manager II	\$ 112.92	\$ 44.31	\$ 157.23	-	\$ -
	Public Health Program Manager II	\$ 107.34	\$ 42.12	\$ 149.46	0.20	\$ 29.89
	Public Health Epidemiologist II	\$ 80.59	\$ 31.62	\$ 112.21	0.60	\$ 67.33
	Chronic Disease Prevention Coordinator	\$ 78.22	\$ 30.69	\$ 108.91	0.15	\$ 16.34
	Chronic Disease Prevention Specialist II	\$ 71.68	\$ 28.13	\$ 99.81	0.15	\$ 14.97
				Total	1.20	\$ 141.95

Total Annual Cost:	N/A
Current Revenue:	\$ - N/A
Unmet Cost:	N/A N/A

Current Fee: \$ 107.00

Proposed Fee: \$ 118.00

Proposed Cost Recovery: N/A

**Health Department
Research/Evaluation and Information Technology
Fee Study
FY 2022-23**

Legal Authority: N/A

Test Name: Spatial analysis and/or mapping (2 hr. min)

Description of Service: Spatial analysis and/or mapping (2 hr. min)

Volume: Approximate annual total: N/A

Time to Perform: 1.20 hours

Cost to Perform:	Classification	Total S&B per Hour	Overhead	Fully Loaded Cost per Hour	Hours	Total Cost
	Management Analyst II	\$ 85.26	\$ 33.46	\$ 118.72	-	\$ -
	Management Analyst III	\$ 96.38	\$ 37.82	\$ 134.20	-	\$ -
	Public Health Program Manager II	\$ 112.92	\$ 44.31	\$ 157.23	0.20	\$ 31.45
	Public Health Program Manager II	\$ 107.34	\$ 42.12	\$ 149.46	0.20	\$ 29.89
	Public Health Epidemiologist II	\$ 80.59	\$ 31.62	\$ 112.21	0.60	\$ 67.33
	Chronic Disease Prevention Coordinator	\$ 78.22	\$ 30.69	\$ 108.91	-	\$ -
	Chronic Disease Prevention Specialist II	\$ 71.68	\$ 28.13	\$ 99.81	0.20	\$ 19.96
	Total				1.20	\$ 148.63

Total Annual Cost:	N/A	
Current Revenue:	\$ -	N/A
Unmet Cost:	N/A	N/A

Current Fee: \$ 112.00

Proposed Fee: \$ 124.00

Proposed Cost Recovery: N/A

**Health Department
Research/Evaluation and Information Technology
Fee Study
FY 2022-23**

Legal Authority: N/A

Test Name: Database cleaning and management

Description of Service: Database cleaning and management

Volume: Approximate annual total: N/A

Time to Perform: 1.20 hours

Cost to Perform:	Classification	Total S&B per Hour	Overhead	Fully Loaded Cost per Hour	Hours	Total Cost
	Management Analyst II	\$ 85.26	\$ 33.46	\$ 118.72	-	\$ -
	Management Analyst III	\$ 96.38	\$ 37.82	\$ 134.20	0.20	\$ 26.84
	Public Health Program Manager II	\$ 112.92	\$ 44.31	\$ 157.23	0.20	\$ 31.45
	Public Health Program Manager II	\$ 107.34	\$ 42.12	\$ 149.46	0.20	\$ 29.89
	Public Health Epidemiologist II	\$ 80.59	\$ 31.62	\$ 112.21	0.20	\$ 22.44
	Chronic Disease Prevention Coordinator	\$ 78.22	\$ 30.69	\$ 108.91	0.20	\$ 21.78
	Chronic Disease Prevention Specialist II	\$ 71.68	\$ 28.13	\$ 99.81	0.20	\$ 19.96
	Total				1.20	\$ 152.36

Total Annual Cost:	N/A	
Current Revenue:	\$ -	N/A
Unmet Cost:	N/A	N/A

Current Fee: \$ 118.00

Proposed Fee: \$ 127.00

Proposed Cost Recovery: N/A

SEXUAL ASSAULT RESPONSE TEAM (SART) FEE SCHEDULE (Penal Code section 13823.95)

	Current Fee	Proposed Fee
1. Victim Examination including photography, SART Program Service Charge	925.00	2,052.00
2. Suspect Examination including photography, SART Program Service Charge	675.00	1,497.00
3. Non-Investigative Report (NIR)	925.00	2,052.00
4. Readiness Retainer Fee (per participating law enforcement agency/fiscal year)	2,000.00	2,000.00
5. Testimony for non-participating Law Enforcement Agency (Half Day)	665.00	720.00
6. Testimony for non-participating Law Enforcement Agency (Full Day)	1,330.00	1,440.00



Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor Jane Parker to:

Resolution No.: 19-301

Adopt a Resolution Amending Article I.B - Public Health Bureau of the Monterey County Master Fee Resolution effective October 10, 2019, to adjust fees pursuant to the attached Fee Schedule relating to services provided by the Health Department's Administration and Public Health Bureau.

PASSED AND ADOPTED on this 10th day of September 2019, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams

NOES: None

ABSENT: None

I, Valerie Ralph, 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 82 for the meeting September 10, 2019.

Dated: September 13, 2019
File ID: RES 19-110
Agenda Item No.: 22

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California


Julian Lorenzana, Deputy

**Before the Board of Supervisors In and For The
County of Monterey, State of California**

Resolution No.: 19-301

Adopt a Resolution Amending)
Article I.b. of the Monterey County Master Fee)
Resolution effective October 10, 2019,)
relating to the Public Health Bureau's fees.....)

THE MONTEREY COUNTY BOARD OF SUPERVISORS FINDS:

- A. Section 1.40.010 of Chapter 1.40 of Monterey County Code provides that all fees, penalties, refunds, reimbursements and charges of any kind by the County may be specified in the Monterey County Fee Resolution.
- B. The Public Health Bureau of the Monterey County Health Department is proposing fee adjustments to the Public Health Bureau's Master Fee schedule, Article I.b., to more closely reflect, while still not exceeding, the actual and reasonable costs of services and benefits provided to the public by Public Health. In addition to these adjustments, and to more accurately capture the fees associated with services provided, the Article I.b. Master Fee Schedule has been reformatted into subsets to better reflect costs that can be differentiated by category, service or description within each program, and descriptions and language have been clarified to enhance customer service.
- C. Any and all adjustments to fees for services reflect no more than the actual and reasonable cost of the service or benefit received by the payor and burdened on the County. Any discount applicable to these surcharges have a minimum impact on the departmental budget and implementation of that discount does not result in increased fees or costs for other patrons.
- D. By definition, these charges are not a 'tax' and are exempt from voter approval pursuant to Article XIII C section 1(e)(1)-(3) of the California Constitution (Prop. 26; charges imposed for specific benefit conferred/privilege/service or product, and/or reasonable regulatory costs provided or granted to the payer).

THE MONTEREY COUNTY BOARD OF SUPERVISORS RESOLVES:

- 1. Article I.b. of the Monterey County Fee Resolution is amended, and the fees of the Public Health Bureau of the Monterey County Health Department set forth in the attachment hereto are hereby adopted.
- 2. To the extent, the Article 1.b fees hereby adopted differ from the previously adopted fees for the specified services, the newly adopted fees supersede the previously adopted fees.
- 3. The effective date of the fees approved in this Resolution is October 10, 2018.

PASSED AND ADOPTED on this 10th day of September 2019, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams

NOES: None

ABSENT: None

I, Valerie Ralph, 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 82 for the meeting September 10, 2019.

Dated: September 11, 2019

File ID: RES 19-110

Agenda Item No.: 22

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California


Julian Lorenzana, Deputy

ARTICLE I.B
COUNTY OF MONTEREY HEALTH DEPARTMENT
SCHEDULE OF FEES AND CHARGES
Article I.B - Public Health Bureau

CATEGORY/SERVICE/DESCRIPTION	FEE	PER
PUBLIC HEALTH NURSING		
Note: If the client requests and is eligible, the attached Public Health Sliding Fee Schedule is applied.		
a. Public Health Nurse Home Visit	569.37	Visit
CHILDREN'S MEDICAL SERVICES	FEE	
1. Usual and Customary Fees		
a. Treatment (initial 30 minutes)	89.00	Visit
b. Treatment (each additional 15 minutes)	33.00	Visit
c. Evaluation (initial 30 minutes)	89.00	Visit
d. Evaluation (each additional 15 minutes)	33.00	Visit
e. Case Conference and Report (initial 30 minutes)	89.00	Each
f. Case Conference and Report (each additional 15 minutes)	33.00	Each
g. Case Consultation and report	164.00	Each
h. Off- site Travel to provide above Services, 15 minutes increment	33.00	Visit
VITAL RECORDS	FEE	
a. Medical Marijuana Identification Card Processing or Replacement Statutorily required 50% fee discount for Medi-Cal Beneficiaries. Additional Statutory fee discounts may apply (H&S 11362.755)	100.00	Application
b. Burial Transit Permit Letter	25.00	Each
PUBLIC HEALTH LABORATORY	FEE	
1. Bacteriology:		
a. E. coli STEC Culture	90.00	Each
b. Enteric Stool Culture-Campylobacter	90.00	Each
c. Miscellaneous Culture	40.00	Each
d. Bacterial Culture Identification	90.00	Each
e. E. coli STEC ID	87.00	Each
f. Salmonella ID	87.00	Each
g. Shigella ID	87.00	Each
h. Bordetella pertussis PCR	95.00	Each
i. Enteric Stool Culture - Comprehensive	208.00	Each
j. Enteric Stool Culture – Salmonella CC	90.00	Each
k. Enteric Stool Culture – Vibrio sp.	90.00	Each
l. Enteric Stool Culture - Shigella	90.00	Each
m. Bacterial Meningitis Panel (a)	126.00	Each
n. Haemophilus influenza PCR Primary Source	95.00	Each
o. N. meningitidis PCR	95.00	Each
2. Parasites:		
a. O&P Complete	106.00	Each
b. Arthropod Identification	25.00	Each
c. Giemsa Smear	103.00	Each
d. Pinworm	20.00	Each
e. Cyclospora/Isospora/Cryptosporidia	75.00	Each
f. Helminth Identification	25.00	Each

g. Microsporidia	75.00	Each
h. Cryptosporidia/Giardia	60.00	Each
3. Mycology:		
a. Fungus ID Mold	100.00	Each
b. Fungus ID Yeast	90.00	Each
c. Fungus Smear and Culture	83.00	Each
d. Coccidioides immitis PCR	95.00	Each
e. Fungus Blood Culture (a)	68.00	Each
4. Mycobacteriology:		
a. AF Smear & Culture	76.00	Each
b. Mycobacterium tuberculosis PCR	95.00	Each
c. Mycobacterium tuberculosis Drugs	224.00	Each
d. AFB for ID (b)	90.00	Each
e. AFB Blood Culture (a)	72.00	Each
f. Ziehl Neelsen Stain and Subculture (b)	70.00	Each
5. Serology:		
a. Quantiferon TB Plus	90.00	Each
6. Virology:		
a. Influenza AB PCR Panel	129.00	Each
b. Measles PCR	95.00	Each
c. Mumps PCR	95.00	Each
d. Norovirus PCR	129.00	Each
e. Rabies DFA	110.00	Each
7. Comprehensive Respiratory Panel	220.00	Each
8. Reference Testing Syphilis	Actual shipping costs, plus actual reference lab testing charge, plus \$15.00 packaging	
9. Reference Testing (West Nile, etc)	Actual shipping costs, plus actual reference lab testing charge, plus \$15.00 packaging	
10. Blood Draw	20.00	Each
ENVIRONMENTAL LABORATORY		
1. Chemical Panels:		
a. CCR Title 22 Secondary (aesthetics).	203.00	Panel
b. CCR Title 22 Primary (inorganic chemicals).	250.00 includes actual outside lab charge, plus a \$20.00 shipping and handling fee.	Panel
c. CCR Title 22 General Physical (Color, Odor, Turbidity)	55.00	Panel
d. CCR Title 22 Combined general mineral, general physical and inorganics.	336.00 includes actual outside lab	Panel

	charge, plus a \$20.00 shipping and handling fee.	
e. Domestic Panel. Includes coliforms, nitrate, hardness, manganese and iron.	132.00	Panel
f. Irrigation Suitability. ASTM 6919 (Ca, Mg, Na, K), EPA 300 (NO ₃ , SO ₄ , Cl), Alk, pH, SEC, TDS, NO ₂ (N), B	139.00	Panel
g. Ag Waiver ASTM 6919 (Ca, Mg, Na, K), EPA 300 (NO ₃ , SO ₄ , Cl), Alk, pH, SEC, TDS	121.00	Panel
h. Ag Waiver 5 or more tests) ASTM 6919 (Ca, Mg, Na, K), EPA 300 (NO ₃ , SO ₄ , Cl), Alk, pH, SEC, TDS	110.00	Panel
i. Pathogens Monitoring for Irrigation Water (one sample) Generic E. coli STEC (including E.coli 0157) & Salmonella	186.00	Panel
j. Pathogen Monitoring for Irrigation Water (one sample) Campylobacter, Listeria monocytogenes, Salmonella, Shigella, STEC and Legionella	579.00	Panel
k. Anions – Includes chloride, nitrate and sulfate	65.00	Panel
l. Partial – Includes nitrate, chloride and conductivity	60.00	Panel
m. Complete – Includes Cations, Anions, Conductivity, and Alkalinity (5 or more tests)	110.00	Panel
n. Complete – Includes Cations, Anions, Conductivity, and Alkalinity	117.00	Panel
o. Nutrients – Includes nitrate, ammonia, and orthophosphates	72.00 includes actual outside lab charge, plus a \$20.00 shipping and handling fee.	Panel
p. Corrosively (Langelier Index). Includes pH, Alkalinity, Calcium and TDS	83.00	Panel
q. Lead/Copper rule	50.00	Panel
r. NPDES Municipal Water Supply Panel EPA 200.8 (Ca, Mg, Na, Fe), EPA300 (NO ₃ , NO ₃ , SO ₄ , Cl), B, ALK, TDS, pH, SEC	205.00 includes actual outside lab charge, plus a \$20.00 shipping and handling fee.	Panel
s. NPDES Influent Panel EPA 300 (Cl ₁ , NO ₃ , NO ₃ , [N]), B, SO ₄ , Solids, TSS, TDS, Na, NO ₂ (N), Total (N), BOD, TKN	242.00 includes actual outside lab charge, plus a \$20.00 shipping and handling fee.	Panel
t. NPDES Effluent Panel – EPA 300 (Cl ₁ , NO ₃ , NO ₃ , [N]), B, SO ₄ , pH, Solids, TSS, TDS, Na, NO ₂ (N), Total (n), BOD, TKN	250.00 includes actual outside lab charge, plus a \$20.00 shipping and handling fee.	Panel
u. NPDES Waste Water Metals	actual outside lab charge, plus a \$20.00 shipping and handling fee.	Panel
v. NPDES Ground Water Monitoring Panel EPA 300 (Cl, NO ₃ , NO ₃ [N], B, SO ₄ , TDS pH, Na, NO ₂ (N), Total (N), TKN	189.00 includes actual outside lab charge, plus a	Panel

	\$20.00 shipping and handling fee.	
w. Recreational Water Total Coliform, E.coli Enterococcus	80.00	Panel
x. Cations Ca, Na, Mg, K	72.00	Panel
y. Coliform P/A – 1 to 5 tests	27.00	Panel
z. Coliform P/A – 6 to 10 tests	21.00	Panel
aa. Coliform P/A – more than 11 tests	14.00	Panel
bb. Quantitray – 1 to 5 tests	32.00	Panel
cc. Quantitray – 6 to 10 tests	28.00	Panel
dd. Quantitray – more than 11 tests	18.00	Panel
ee. Panel tests completed by outside lab – Synthetic, Organic, misc	actual outside lab charge, plus a \$20.00 shipping and handling fee	Panel
2. Bacteriology:		
a. Aerobic Culture	30.00	Each
b. Cl. perfringens Spores	88.00	Each
c. Coliform; Quantitray (ground)	32.00	Each
d. Coliform; Quantitray (w/dilution)	44.00	Each
e. Coliform; MMO-MUG	27.00	Each
f. Coliform; MTF total or fecal	47.00	Each
g. Coliform; MTF total or fecal (high dilution)	53.00	Each
3. General Chemistry		
a. Alkalinity, total (as CaCO ₃)	25.00	Each
b. Agriculture – Conductivity	14.00	Each
c. Aluminum	32.00	Each
d. Ammonia	36.00	Each
e. Antimony	32.00	Each
f. Arsenic	32.00	Each
g. Barium	32.00	Each
h. Beryllium	32.00	Each
i. Boron – Drinking Water	32.00	Each
j. Boron –Waste Water	33.00	Each
k. Bromide	28.00	Each
l. Cadmium	32.00	Each
m. Calcium	32.00	Each
n. Chloride	28.00	Each
o. Chromium	32.00	Each
p. Color	18.00	Each
q. Conductivity	10.00	Each
r. Copper	32.00	Each
s. E. coli Solids	59.00	Each
t. Enterococcus	32.00	Each
u. Enterococcus with dilution	44.00	Each
v. Fluoride	28.00	Each
w. Food and water Pathogens; Campylobacter	90.00	Each
x. Food and water pathogens; Listeria sp.	90.00	Each
y. Food and water pathogens; Listeria monocytogenes	90.00	Each
z. Food and water pathogens; Salmonella	90.00	Each
aa. Food and water pathogens; Shigella	90.00	Each

bb. Food and water pathogens: STEC	112.00	Each
cc. Water pathogens; Legionella sp & L. pneumophila (IDESS Legiolert)	58.00	Each
dd. Food and water pathogens; Legionella sp & L. pneumophila Culture and PCR	138.00	Each
ee. Free Chlorine	9.00	Each
ff. Heterotrophic Plate (Aerobic)	30.00	Each
gg. Heterotrophic Plate (Anaerobic)	38.00	Each
hh. Iron	32.00	Each
ii. Lead Pb	32.00	Each
jj. Magnesium	32.00	Each
kk. Manganese	32.00	Each
ll. MBA Surfactants	47.00	Each
mm. Mercury	32.00	Each
nn. Microscopic	30.00	Each
oo. NAA Environmental	55.00	Each
pp. Nickel	32.00	Each
qq. Nitrate NO3 – 1 to 9 tests	28.00	Each
rr. Nitrate NO3 – more than 10 tests	25.00	Each
ss. Nitrate as nitrogen	28.00	Each
tt. Odor	15.00	Each
uu. Orthophosphate as P	28.00	Each
vv. pH Field	14.00	Each
ww. pH Laboratory	14.00	Each
xx. Salinity	10.00	Each
yy. Potassium	32.00	Each
zz. Sample Prep/Acid Digestion	12.00	Each
aaa. Sample Prep/Filtration	10.00	Each
bbb. Sample consulting per hour	175.00	Each
ccc. Selenium	32.00	Each
ddd. Silver	32.00	Each
eee. Sodium	32.00	Each
fff. Sulfate	28.00	Each
ggg. Thallium	32.00	Each
hhh. Total Chlorine	9.00	Each
iii. Total Dissolved Solids	26.00	Each
jjj. Total Phosphorus	44.00	Each
kkk. Total Settleable Solids	12.00	Each
lll. Total Suspended Solids	24.00	Each
mmm. Turbidity	18.00	Each
nnn. Zinc	32.00	Each
ooo. Instrument Calibration Check	25.00	Each
ppp. Well Collection	25.00	Each
qqq. Strontium (ICP metal)	32.00	Each
rrr. Bacteria ID – API	45.00	Each
sss. Total Solids	24.00	Each
ttt. Water Suitability	400.00	Each

Please note: Special Project Pricing for Public and Environmental Health Laboratory services is available through a contractual agreement. New test may be added to Fee Schedule to help meet the needs of the public as related to emerging issues. Fees will be assigned using the same procedure used to establish the above fees (Procedure Time Value and Time Ladder Studies).

HEALTH PROMOTION/WELLNESS

1. Wellness Classes/Presentations:

FEE

The following classes are charged per class (not individual) and include materials. Available class subjects: Back Injury Prevention, Cancer Prevention, Ergonomics, Exercise & Fitness, Heart Disease Prevention, Nutrition, Better Medical Decisions, Safety & Injury Prevention, Stress Management.

a. 1 Hour Class	581.00	Class
b. Each additional Classroom Hour	189.00	Class
c. New Class Development	438.00	Class

2. Teen Pregnancy Prevention/Reproductive Health Education

FEE

a. Reproductive Health Class	255.00	Each
------------------------------	--------	------

SEXUAL ASSAULT RESPONSE TEAM (SART) FEE SCHEDULE (Penal Code section 13823.95)

SERVICE PROVIDED

FEE

1. Victim Examination including photography, SART Program Service Charge	925.00	Each
2. Suspect Examination including photography, SART Program Service Charge	675.00	Each
3. Abbreviated Exam	300.00	Each
4. Readiness Retainer Fee (per participating law enforcement agency/fiscal year)	2,000.00	Each

EPIDEMIOLOGY/RESEARCH/EVALUATION FEE

CATEGORY/SERVICE DESCRIPTION

FEE

PER

1. Grant proposal development and preparation	116.00	Each
2. Contract or agreement preparation	119.00	Each
3. Policy development, draft policy language and technical assistance (2 hr. min)	122.00	Each
4. Research, Evaluation, and Assessment	114.00	Each
5. Publication or report development and/or review (including data/fact checking)	115.00	Each
6. Data collection, extraction, statistical analysis, and/or interpretation – basic	110.00	Each
7. Data collection, extraction, statistical analysis, and/or interpretation – advanced (2 hr. min)	124.00	Each
8. Spatial analysis and/or mapping (2 hr. min)	129.00	Each
9. Database cleaning and management	131.00	Each

MONTEREY COUNTY HEALTH DEPARTMENT

SLIDING FEE SCALE
2019

*****ANNUAL INCOME LEVEL*****

Family Size	150% Poverty	% of Fee Paid	145% Poverty	% of Fee Paid	140% Poverty	% of Fee Paid	135% Poverty	% of Fee Paid	100% Poverty	% of Fee Paid	Below Poverty	% of Fee Paid
1	\$18,735 and over	100%	\$18,110-\$18,734	80%	\$17,486-\$18,109	60%	\$16,861-\$17,485	40%	\$12,490-\$16,860	20%	\$0-\$12,490	Free
2	\$25,365 and over	100%	\$24,519-\$25,364	80%	\$23,674-\$24,518	60%	\$22,828-\$24,517	40%	\$16,910-\$22,827	20%	\$0-\$16,910	Free
3	\$31,995 and over	100%	\$30,928-\$31,994	80%	\$29,862-\$30,927	60%	\$28,795-\$29,861	40%	\$21,330-\$28,794	20%	\$0-\$21,330	Free
4	\$38,625 and over	100%	\$37,337-\$38,624	80%	\$36,050-\$37,336	60%	\$34,762-\$36,049	40%	\$25,750-\$34,761	20%	\$0-\$25,750	Free
5	\$45,255 and over	100%	\$43,746-\$45,224	80%	\$42,238-\$43,745	60%	\$40,729-\$42,237	40%	\$30,170-\$40,728	20%	\$0-\$30,170	Free
6	\$51,885 and over	100%	\$50,155-\$51,884	80%	\$48,426-\$50,154	60%	\$46,696-\$48,425	40%	\$34,590-\$45,548	20%	\$0-\$34,590	Free
7	\$58,515 and over	100%	\$56,564-\$58,514	80%	\$54,614-\$56,563	60%	\$52,663-\$54,613	40%	\$39,010-\$51,380	20%	\$0-\$39,010	Free
8	\$65,145 and over	100%	\$62,973-\$65,144	80%	\$60,802-\$62,972	60%	\$58,630-\$60,801	40%	\$43,430-\$58,629	20%	\$0-\$43,430	Free
9	\$71,775 and over	100%	\$69,382-\$71,774	80%	\$66,990-\$69,391	60%	\$64,597-\$66,989	40%	\$47,850-\$64,596	20%	\$0-\$47,850	Free
10	\$78,405 and over	100%	\$75,791-\$78,404	80%	\$73,178-\$75,790	60%	\$70,564-\$73,177	40%	\$52,270-\$70,563	20%	\$0-\$52,270	Free
Additional	\$6,630.00		\$6,409.00		\$6,188.00		\$5,967.00		\$4,420.00			

Based upon 2019 Federal Poverty Level Guidelines

% Fee = Percentage of the total cost of the fee that patient is required to pay.

Free = Patient is not required to pay – all fees are waived.

Fee calculated by taking office charge X % required to pay = \$ patient is responsible to pay

Example: Office Visit \$60.00 X .80 = \$48.00 is the amount the patient is responsible for paying. Patient may be billed if unable to pay at the time of visit.



Monterey County

Item No.30

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-519

September 27, 2022

Introduced: 9/20/2022

Current Status: Health Department -
Consent

Version: 1

Matter Type: BoS Agreement

Approve and authorize the Director of Health or Assistant Director of Health to execute an Operational Agreement between Monterey County Health Department's Sexual Assault Response Team (SART) and Monterey County Rape Crisis Center (MCRCC), agreeing to work together toward the mutual goal of providing maximum available assistance for crime victims residing in Monterey County, for the term October 1, 2022 through September 30, 2025.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Approve and authorize the Director of Health or Assistant Director of Health to execute an Operational Agreement between Monterey County Health Department's Sexual Assault Response Team (SART) and Monterey County Rape Crisis Center (MCRCC), agreeing to work together toward the mutual goal of providing maximum available assistance for crime victims residing in Monterey County, for the term October 1, 2022 through September 30, 2025.

SUMMARY/DISCUSSION:

The acronym "SART" (Sexual Assault Response Team) is used to identify the multidisciplinary team (MDT) comprised of trained sexual assault counselors, responding law enforcement agents, and sexual assault forensic examiners (SAFE) when an evidentiary exam is requested for suspected sexual assault or abuse. The health care sector of SART is currently under the administration of Monterey County Health Department (MCHD). MCHD contracts with a private physician-owned medical group that employs the SAFEs who conduct the evidentiary exams.

In August of 1998, Monterey County implemented the first multidisciplinary SART. The sexual assault forensic examiners were provided by other agencies until July of 2007, when MCHD became the program administrator. MCRCC and the current SAFE team have continued to work cooperatively since that time. MCRCC's sexual assault counselors respond to evidentiary exams along with the SAFEs to offer legally mandated advocacy services for victims who report sexual assault. MCRCC responders are on call 24 hours a day, 7 days a week, to accompany victims when an evidentiary exam is conducted by a SAFE.

The MCRCC supplies written materials, snacks, and comfort objects that are offered by the SAFE to the victim at the time of an evidentiary exam. In addition, The MCRCC personnel work both independently and in conjunction with the SAFE team to provide education to various sectors of the MDT. The MCRCC and SAFE team are available to debrief staff and offer informational and

emotional support to the extended MDT. The MCRCC employees participate in case reviews with both the SAFE team and the extended MDT and are a source of consultation for referrals for survivors of sexual assault and commercially sexually exploited children (CSEC).

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Goals, 3. Ensure access to culturally and linguistically appropriate, customer-friendly, quality health services, 4. Engage MCHD workforce and improve operational functions to meet current and developing population health needs. It also supports the following of the ten essential public health services, specifically; 2. Diagnose and investigate health problems and health hazards in the community, 4. Mobilize community partnerships and action to identify and solve health problems, 6. Enforce laws and regulations that protect health and ensure safety.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed and approved this agreement as to form.

FINANCING:

This operational Agreement does not contain any fiscal provisions; therefore, there is no impact to the General Fund from its approval.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Faye Maja Bates, Clinic Nurse Practitioner, 755-4562

Approved by:

Date: _____
Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachment:
Operational Agreement



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-519

September 27, 2022

Introduced: 9/20/2022

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

Approve and authorize the Director of Health or Assistant Director of Health to execute an Operational Agreement between Monterey County Health Department's Sexual Assault Response Team (SART) and Monterey County Rape Crisis Center (MCRCC), agreeing to work together toward the mutual goal of providing maximum available assistance for crime victims residing in Monterey County, for the term October 1, 2022 through September 30, 2025.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Approve and authorize the Director of Health or Assistant Director of Health to execute an Operational Agreement between Monterey County Health Department's Sexual Assault Response Team (SART) and Monterey County Rape Crisis Center (MCRCC), agreeing to work together toward the mutual goal of providing maximum available assistance for crime victims residing in Monterey County, for the term October 1, 2022 through September 30, 2025.

SUMMARY/DISCUSSION:

The acronym "SART" (Sexual Assault Response Team) is used to identify the multidisciplinary team (MDT) comprised of trained sexual assault counselors, responding law enforcement agents, and sexual assault forensic examiners (SAFE) when an evidentiary exam is requested for suspected sexual assault or abuse. The health care sector of SART is currently under the administration of Monterey County Health Department (MCHD). MCHD contracts with a private physician-owned medical group that employs the SAFEs who conduct the evidentiary exams.

In August of 1998, Monterey County implemented the first multidisciplinary SART. The sexual assault forensic examiners were provided by other agencies until July of 2007, when MCHD became the program administrator. MCRCC and the current SAFE team have continued to work cooperatively since that time. MCRCC's sexual assault counselors respond to evidentiary exams along with the SAFEs to offer legally mandated advocacy services for victims who report sexual assault. MCRCC responders are on call 24 hours a day, 7 days a week, to accompany victims when an evidentiary exam is conducted by a SAFE.

The MCRCC supplies written materials, snacks, and comfort objects that are offered by the SAFE to the victim at the time of an evidentiary exam. In addition, The MCRCC personnel work both independently and in conjunction with the SAFE team to provide education to various sectors of the MDT. The MCRCC and SAFE team are available to debrief staff and offer informational and emotional support to the extended MDT. The MCRCC employees participate in case reviews with

both the SAFE team and the extended MDT and are a source of consultation for referrals for survivors of sexual assault and commercially sexually exploited children (CSEC).

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Goals, 3. Ensure access to culturally and linguistically appropriate, customer-friendly, quality health services, 4. Engage MCHD workforce and improve operational functions to meet current and developing population health needs. It also supports the following of the ten essential public health services, specifically; 2. Diagnose and investigate health problems and health hazards in the community, 4. Mobilize community partnerships and action to identify and solve health problems, 6. Enforce laws and regulations that protect health and ensure safety.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed and approved this agreement as to form.

FINANCING:

This operational Agreement does not contain any fiscal provisions; therefore, there is no impact to the General Fund from its approval.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

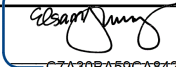
- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Faye Maja Bates, Clinic Nurse Practitioner, 755-4562

Approved by:

Legistar File Number: A 22-519

DocuSigned by:



C7A30BA59CA8423...

Date: 9/21/2022 | 8:52 AM PDT

Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachment:

Operational Agreement

OPERATIONAL AGREEMENT

This Operational Agreement stands as evidence that the Monterey County Rape Crisis Center (MCRCC) and the Monterey County Health Department's Sexual Assault Response Team (SART) Program agree to work together toward the mutual goal of providing maximum available assistance for crime victims residing in Monterey County. Both agencies believe that implementation of the Program proposal, as described herein will further this goal. To this end, each agency agrees to participate in the program, by coordinating/providing the services described below:

1. The Monterey County Rape Crisis Center provides services that include:
 - a. A 24-hour crisis line staffed by Certified Sexual Assault Counselors (SART advocates).
 - b. Crisis intervention, in-person counseling and follow-up services.
 - c. Accompaniment and advocacy services.
 - d. Information and referral services.
 - e. Community education programs and cross-trainings with other SART team members.

2. The Monterey County Health Department (MCHD) provides services that include:
 - a. Conducting forensic sexual assault examinations.
 - b. Ensuring the evidence collected during the examinations is picked up by the appropriate law enforcement agency.
 - c. Providing expert witness testimony in court.

3. The Monterey County Rape Crisis Center will closely coordinate services with the Monterey County Health Department through:
 - a. MCRCC Certified Sexual Assault Counselors being available within 60 minutes to assist victims at the hospital.
 - b. Participation of representatives of all three (3) agencies (MCRCC, SART and MCHD) at SART Coalition meetings and at cross-training's regarding SART protocols.
 - c. Annual meetings between representatives of MCRCC and the SART Coordinator to discuss strategies, timetables, and implementation of mandated services.

The Monterey County Health Department agrees that Certified Sexual Assault Counselors from the MCRCC will be called as soon as notification is received that a sexual assault victim is en route to the hospital, and to provide sexual assault victims and significant others information regarding the services provided by MCRCC.

Any party may terminate this Operational Agreement without cause by giving the other party thirty (30) calendar days' written notice. This Operational Agreement may only be rescinded, modified, or amended by mutual agreement in writing.

We the undersigned, as authorized representatives of the Monterey County Rape Crisis Center and the Monterey County Health Department do hereby approve this document which shall be in effect from October 1, 2022 to September 30, 2025.



973967772EFB4A1

Lauren DaSilva
Executive Director
Monterey County Rape Crisis Center

9/15/2022 | 3:37 PM PDT

DATE

Elsa M. Jimenez
Director of Health
Monterey County Health Department

DATE

Approved as to Form:

DocuSigned by:
 Shane Strong
F631FE484254499...

Deputy County Counsel
9/19/2022 | 1:00 PM PDT

DATE



Monterey County

Item No.31

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-515

September 27, 2022

Introduced: 9/19/2022

Current Status: Health Department -
Consent

Version: 1

Matter Type: BoS Agreement

- a. Approve and authorize the Director of Health or the Assistant Director of Health to execute a Student Placement Agreement between the County of Monterey and the University of San Francisco for the term October 1, 2022 to May 12, 2023 for the provision of Student Internship; and
- b. Approve the recommendation of Director of Health to accept all non-standard provisions in Agreement; and
- c. Approve the Director of Health or the Assistant Director of Health to approve up to three (3) future Amendments that do not significantly alter the scope of services.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Director of Health or the Assistant Director of Health to execute a Student Placement Agreement between the County of Monterey and the University of San Francisco for the term October 1, 2022 to May 12, 2023 for the provision of Student Internship; and
- b. Approve the recommendation of Director of Health to accept all non-standard provisions in Agreement; and
- c. Approve the Director of Health or the Assistant Director of Health to approve up to three (3) future Amendments that do not significantly alter the scope of services.

SUMMARY/DISCUSSION:

The Monterey County Health Department (MCHD) request the Board of Supervisors to accept and approve the Student Placement Agreement between the County of Monterey and the University of San Francisco (USF) to be used for students enrolled at USF who require practical, clinical, and non-clinical experience towards their school's field education and/or service-learning requirements.

The University of San Francisco is committed to service in the community and applied learning experiences for students. This is accomplished both through field education and service-learning requirements. Field education and service learning involves the completion of internship or externship assignments in the local community that tie meaningful learning experiences directly to course content. Through reflective activities, service, and field seminars, students enhance their understanding of course content, sense of civic responsibility, self-awareness, professional development, and commitment to the community. Additionally, while providing "real world" experience for student interns/externs, MCHD will attract University graduates to apply for future job openings, thereby creating a pipeline for students (who may have bilingual skills) to pursue their work career in Monterey County.

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Goal: 1. Engage MCHD workforce and improve operational functions to meet current and developing population health needs. It also supports one of the ten essential public health services, specifically: 3. Inform, education, and empower people about health issues; 4. Mobilize community partnerships and action to identify and solve health problems; and 8. Assure competent public and personal health care workforce.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and the Auditor-Controller have reviewed and approved as to legal form, non-standard provisions and fiscal provisions, respectively.

FINANCING:

This operational Agreement does not contain any fiscal provisions; therefore, there is no impact to the General Fund from its approval.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Krista Hanni, Public Health Program Manager II, 755-4586

Approved by:

Date: _____
Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachment:

Agreement



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-515

September 27, 2022

Introduced: 9/19/2022

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Approve and authorize the Director of Health or the Assistant Director of Health to execute a Student Placement Agreement between the County of Monterey and the University of San Francisco for the term October 1, 2022 to May 12, 2023 for the provision of Student Internship; and
- b. Approve the recommendation of Director of Health to accept all non-standard provisions in Agreement; and
- c. Approve the Director of Health or the Assistant Director of Health to approve up to three (3) future Amendments that do not significantly alter the scope of services.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Director of Health or the Assistant Director of Health to execute a Student Placement Agreement between the County of Monterey and the University of San Francisco for the term October 1, 2022 to May 12, 2023 for the provision of Student Internship; and
- b. Approve the recommendation of Director of Health to accept all non-standard provisions in Agreement; and
- c. Approve the Director of Health or the Assistant Director of Health to approve up to three (3) future Amendments that do not significantly alter the scope of services.

SUMMARY/DISCUSSION:

The Monterey County Health Department (MCHD) request the Board of Supervisors to accept and approve the Student Placement Agreement between the County of Monterey and the University of San Francisco (USF) to be used for students enrolled at USF who require practical, clinical, and non-clinical experience towards their school's field education and/or service-learning requirements.

The University of San Francisco is committed to service in the community and applied learning experiences for students. This is accomplished both through field education and service-learning requirements. Field education and service learning involves the completion of internship or externship assignments in the local community that tie meaningful learning experiences directly to course content. Through reflective activities, service, and field seminars, students enhance their understanding of course content, sense of civic responsibility, self-awareness, professional development, and commitment to the community. Additionally, while providing "real world" experience for student interns/externs, MCHD will attract University graduates to apply for future job openings, thereby creating a pipeline for students (who may have bilingual skills) to pursue their work career in Monterey County.

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Goal: 1.

Legistar File Number: A 22-515

Engage MCHD workforce and improve operational functions to meet current and developing population health needs. It also supports one of the ten essential public health services, specifically: 3. Inform, education, and empower people about health issues; 4. Mobilize community partnerships and action to identify and solve health problems; and 8. Assure competent public and personal health care workforce.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and the Auditor-Controller have reviewed and approved as to legal form, non-standard provisions and fiscal provisions, respectively.

FINANCING:

This operational Agreement does not contain any fiscal provisions; therefore, there is no impact to the General Fund from its approval.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

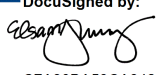
- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Krista Hanni, Public Health Program Manager II, 755-4586

Approved by:

DocuSigned by:

C7A30BA59CA8423...

Date: 9/20/2022 | 4:19 PM PDT

Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachment:

Agreement

**STUDENT PLACEMENT AGREEMENT
BETWEEN
THE COUNTY OF MONTEREY, BY AND THROUGH
THE COUNTY OF MONTEREY HEALTH DEPARTMENT,
AND
UNIVERSITY OF SAN FRANCISCO**

THIS AGREEMENT is made and entered into this First day of October, 2022 between the University of San Francisco (“Institution”) and the County of Monterey, on behalf of Monterey County Department of Health (“COUNTY”).

- A. Institution is committed to service in the community and applied learning experiences for students. This is accomplished both through field education and service-learning requirement. Field education and service learning involve the completion of internship or externship assignments in the local community that tie meaningful learning experiences directly to course content. Through reflective activities, service, and field seminars, students enhance their understanding of course content, sense of civic responsibility, self-awareness, professional development, and commitment to the community.
- B. The mission of the COUNTY is to excel at providing quality services for the benefit of all Monterey County residents while developing, maintaining, and enhancing the resources of the region.
- C. COUNTY and Institution recognize the opportunity for meaningful learning experiences for Institution, COUNTY, and students. Institution supports the goals and objectives of the COUNTY program in which students will participate.
- D. Health services provided and administered by the COUNTY are governed by but not limited to: Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. Part 160 and Part 164 as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations; California Confidentiality of Medical Information Act, Ca. Civil Code §§ 56 et seq.; Lanterman-Petris-Short Act [Welfare and Institutions Code Section 5000 et seq.]; California Code of Regulations, Title 22, § 51009; Confidential Nature of Records; Welfare and Institutions Code section 14100.2 and 42 Code of Federal Regulations section 431.300 et.seq.

The parties agree as follows:

I. INSTITUTION’S RESPONSIBILITIES

A. Student Profile. Institution shall make available to COUNTY a field application student profile which shall include the student’s name, address, telephone number, other pertinent information. The COUNTY shall review student applications and select students for internship with the COUNTY. Each student shall be responsible for submitting his or her

Monterey County Department of Health and University of San Francisco

10/01/2022 to 05/12/2023

Page 1 of 9

student profile before the Program training period begins. COUNTY shall regard this information as confidential and shall use the information only to identify each student.

B. Schedule of Assignments. Institution shall notify COUNTY designated staff of student assignment, including the name of the student, level of academic preparation, and length and dates of proposed experience. The maximum number of students shall be mutually agreed by the parties. The starting date and length of each Program training period shall be mutually agreed by the parties.

C. Program Coordinator. Institution shall designate a point of contact to coordinate with COUNTY's designee in planning the Program to be provided to students.

D. Records. Institution shall maintain all personnel records for its staff and all academic records for its students. COUNTY will ensure any records kept for student performance are sent to the Institution as proof of student accomplishments.

E. Student Qualifications: Institution shall provide appropriate health and safety training to all students on a regular basis, in accordance with prevailing Federal and State laws and regulations. Institution shall require that each student designated by Institution for clinical and/or practicum experience under this Agreement shall meet the minimum qualifications for a student in the designated Program. Additionally, Institution shall ensure that: (i) all students have documented training to meet OSHA Regulations on occupational Exposure to Blood-borne Pathogens prior to the beginning of the internship experience; and (ii) each student assigned to the COUNTY meet the COUNTY's requirements, see Exhibit A. Where Institution maintains any and all records of such testing, such records shall be made available to COUNTY upon request.

F. Health Insurance. Institution shall ensure each student has his or her own health insurance if not provided by the Institution.

G. Student Responsibilities. Institution shall notify students in the program that they are responsible for:

- 1) Complying with COUNTY's clinical and administrative policies, procedures, rules, and regulations, as outlined in Exhibit A of this Agreement.
- 2) Arranging for his/her own transportation and living arrangements.
- 3) Assuming responsibility for personal illnesses, necessary immunizations, tuberculin tests, annual health examinations and other requirements as identified by the COUNTY; refer to Exhibit A for COUNTY training requirements.
- 4) Maintaining the confidentiality of patient information.
 - a) No student shall have access to or have the right to receive any medical record, except when necessary in the regular course of the practicum

experience. The discussion, transmission, or narration in any form by students of any individually identifiable patient information, medical or otherwise, obtained in the course of the program is forbidden except as a necessary part of the practical experience.

b) Neither the Institution nor its employees or agents shall be granted access to individually identifiable information unless the patient has first given consent using a form approved by COUNTY that complies with applicable state and federal law as defined in Recital D of this Agreement and its implementing regulations.

c) COUNTY shall reasonably assist student in obtaining patient consent in appropriate circumstances when applicable. In the absence of consent, students shall use de-identified information only in any discussions about the clinical experience with Institution, its employees, or agents.

5) Complying with COUNTY's dress code and wearing name badges identifying themselves as Student Intern, if specified by COUNTY.

6) Students should be informed and aware of the hazards currently known to be associated with the novel coronavirus referred to as "COVID-19." Students acknowledge and agree to follow all current County health and safety requirements as may be required by local, state and/or federal laws, including the use of Personal Protective Equipment.

7) Insurance requirements. See Section V.

H. Field Experience Plan. Institution shall assist in establishing a plan/learning agreement for the field experience by mutual agreement between the COUNTY's representative and the Institution's Field Faculty representative and the student.

I. Field Conference. Institution may facilitate periodic conferences between appropriate representatives of the Field Faculty and COUNTY to evaluate the field experience program provided under this Agreement.

II. COUNTY RESPONSIBILITIES

A. Field Experience. At the COUNTY's discretion, COUNTY shall accept from Institution the student and shall provide the student with a supervised field experience.

B. COUNTY Designee. COUNTY shall designate a member of its staff to participate with Institution's designee in planning, implementing, and coordinating the Program. COUNTY shall notify the Institution in advance of any change in the COUNTY's personnel appointments that may affect the student field program.

C. Access to Facilities. COUNTY shall permit students enrolled in the Program access to COUNTY facilities as appropriate and necessary for their Program, provided that the students' presence shall not interfere with COUNTY's activities.

D. Records and Evaluations. COUNTY shall maintain complete records and reports on student's performance and provide an evaluation to Institution on forms the Institution shall provide.

E. Withdrawal of Students. COUNTY shall have the right to immediately terminate a student's placement/assignment if student who, in the judgment of the COUNTY, is not participating satisfactorily or refuses to follow the COUNTY's administrative policies, procedures, rules and regulations, including but not limited to inappropriate behavior, dress and/or hygiene, and non-compliance with the use of Personal Protective Equipment, as may be required by health and safety protocols. COUNTY shall immediately notify the student and the Institution by telephone or in person. The student and representative(s) of the Institution may meet the COUNTY to determine whether the student will be reinstated in the internship assignment at the COUNTY, and if so, upon terms and conditions determined by COUNTY to be appropriate.

F. Emergency Health Care/First Aid. COUNTY shall, on any day when a student is receiving training at its facilities, ensure student has access to emergency health care or first aid for accidents occurring in its facilities at Institution and/or student expense.

G. COUNTY's Confidentiality Policies. As trainees, students shall be considered members of COUNTY's "workforce," as that term is defined by the HIPAA regulations at 45 C.F.R. § 160.103, and shall be subject to COUNTY's policies respecting confidentiality of medical information (as defined in Recital D). If Institution suspects a breach of any of these policies, Institution must notify the COUNTY Privacy Officer immediately. Notwithstanding any provision of this Agreement to the contrary, in the event of a breach of this Section, the County of Monterey shall have the right to seek direct damages from the Institution.

III. AFFIRMATIVE ACTION AND NON-DISCRIMINATION

The parties agree that all students receiving field education training pursuant to this Agreement shall be selected without discrimination on account of race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity, gender expression, sexual orientation, age, medical condition, military or veteran status.

IV. STATUS OF STUDENTS

Institution represents that the students enrolled in the Program are in attendance for educational purposes, and such students are not considered employees of Institution or of the COUNTY for any purpose, including, but not limited to, payroll taxes, withholdings, compensation for services, welfare and pension benefits, or workers' compensation insurance. Students are considered members of COUNTY's "workforce" for purposes of Recital D compliance and COUNTY policies and procedures. If the student is a paid employee of the

COUNTY, the student will be covered under the COUNTY's insurance policies, including Workers' Compensation, to the extent available to other employees.

V. INSURANCE

The Institution and COUNTY mutually agree that each shall provide and maintain commercial general liability insurance acceptable to both parties in the minimum amounts of \$1,000,000 per occurrence and \$3,000,000 general aggregate. Each shall be responsible for providing the other with a Letter of Insurance evidencing the required coverage prior to execution of this agreement.

The parties shall each further secure and maintain at all times during the term of this Agreement, at their respective sole expense, professional liability insurance covering themselves and their respective employees. Such coverage provided by the Institution and COUNTY may be afforded via commercial insurance, self-insurance, a captive, or some combination thereof at limits of at least \$1,000,000 per claim or occurrence and \$3,000,000 in the aggregate.

The Institution shall maintain or shall cause each student to maintain professional liability, public liability, and property damage insurance in the amount of \$1,000,000 for any single occurrence and a minimum of \$3,000,000 in the aggregate during the trainee's supervised field experience. The Institution shall furnish proof of such insurance coverage prior to execution of this agreement.

In addition, Institution shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

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.

The Institution shall provide commercial general liability and automobile liability Endorsement(s) naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the Institution'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 Institution's insurance.

Student Automobile liability insurance, students who drive to/from any clinical work location, must provide proof of valid California driver's license for in-state students or other valid state driver's license for out-of-state students and proof of insurance.

Workers' Compensation Insurance, if Institution 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.

Except for ten (10) days' notice of non-payment, the Institution and the COUNTY will require thirty (30) days written notice if the policy is canceled, non-renewed, or coverage/limits that are reduced or materially altered.

VI. INDEMNIFICATION.

Each party shall indemnify, defend, and hold harmless the other, its officers, agents, employees, or subcontractors from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by the indemnifying party and/or its officers, agents, employees, students, or subcontractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of the indemnified party and/or its officers, agents, employees and subcontractors. The indemnifying party shall reimburse the other for all costs, attorneys' fees, expenses, and liabilities incurred with respect to any litigation in which the indemnifying party is obligated to indemnify, defend, and hold harmless the other under this Agreement.

VII. TERM AND TERMINATION

A. Term. This Agreement shall be effective as of the date first written above and shall remain in effect until May 12, 2023.

B. Renewal. This Agreement may be renewed by mutual agreement.

C. Termination. This Agreement may be terminated at any time by the written agreement or upon thirty (30) days' advance written notice by one party to the other.

VIII. GENERAL PROVISIONS

A. Amendments. In order to ensure compliance with HIPAA, the following provisions of this Agreement shall not be subject to amendment by any means during the term of this Agreement or any extensions: Section I, Paragraph G, subdivisions 4.a), 4.b), and 4.c); Section II, Paragraph G, to the extent it provides that students are members of COUNTY's "workforce" for purposes of HIPAA; Section II, Paragraph E; and Section IV. This Agreement may otherwise be amended at any time by mutual agreement of the parties without additional consideration, provided that before any amendment shall take effect, it shall be reduced to writing and signed by the parties.

B. Assignment. Neither party shall voluntarily or by operation of law, assign or otherwise transfer this Agreement without the other party's prior written consent. Any purported assignment in violation of this paragraph shall be void.

C. Attorney's Fees. In the event that any action is brought by either party to enforce or interpret the terms of this Agreement, each party shall bear its own attorney's fees and costs.

D. Captions. Captions and headings in this Agreement are solely for the convenience of the parties, are not a part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement or any of its provisions.

E. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute one and the same instrument.

F. Entire Agreement. This Agreement, along with Exhibit A, is the entire agreement between the parties. No other agreements, oral or written, have been entered into with respect to the subject matter of this Agreement.

G. Governing Law. The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California.

H. Notices. Notices required under this Agreement shall be sent to the parties by certified or registered mail, return receipt requested, postage prepaid, at the addresses set forth below.

University of San Francisco
School of Nursing and Health Professions
2130 Fulton Street
San Francisco, CA 94117

County of Monterey, Department of Health
Director, Department of Health
1270 Natividad
Salinas, CA 93906
Phone :831-755- 4500

IX. EXECUTION

By signing below, each of the following represent that they have authority to execute this Agreement and to bind the party on whose behalf their signature is made.

UNIVERSITY OF SAN FRANCISCO

COUNTY OF MONTEREY

By: Megan O'Banion, PsyD (Sr. Associate Dean)

0A1E6852D33845C...

By: _____

Name: Megan O'Banion, PsyD (Sr. Associate Dean)

Name: Elsa Jimenez

Title: Dean, School of Nursing and
Health Professions

Title: Director of Health

Date: 9/9/2022 | 3:13 PM EDT

Date: _____

APPROVED AS TO LEGAL FORM:

By: Shane Strong

F631FE484254499...

Shane Strong

Deputy County Counsel

Date: 9/19/2022 | 1:36 PM

Deputy County Counsel

APPROVED AS TO RISK PROVISIONS:

By: Danielle Mancuso

2AFDFB99D2744CC...

Danielle Mancuso

Risk Management

Date: _____

9/19/2022 | 2:54 PM

Risk Manager

EXHIBIT A

The County of Monterey Department of Health (MCH) policies/procedures listed below indicate the pertinence to this specific internship. The County of Monterey Department of Health reserves the right to amend the policies/procedures below and add additions as needed.

The following is a list of activities students must complete to become/remain an Intern:

- I. Pre-Boarding** (After Student is Matched but *Before* Student is Accepted as a MCH Intern)
 - a. Complete Intern Application
 - b. Pass Live Scan
 - c. Provide DMV Printout
 - d. Provide Driver's License
 - e. NPI number (for interns who will provide clinical services)

- II. On-Boarding**
 - a. Health Department Human Resources (HD HR) Orientation – First day of Internship
 - i. Review and sign the following policies
 1. Drug Free Workplace
 2. HIV/AIDS
 3. Asbestos Notification
 4. Vehicle Use*
 5. Discrimination and Sexual Harassment
 6. Smoke Free
 7. Information Technology Appropriate Use
 8. Protected Information
 - ii. Complete TB Blood Draw
 - b. By end of first week of Internship review and sign the following policies
 - i. Confidentiality*
 - ii. Compliance

Items followed by an asterisk * require Interns to take and pass an on-demand course within the first week of their on-boarding.



Monterey County

Item No.32

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-507

September 27, 2022

Introduced: 9/12/2022

Current Status: Department of Social
Services - Consent

Version: 1

Matter Type: BoS Agreement

- a. Approve and authorize the Director or Assistant Director of the Department of Social Services to sign an agreement with the County of Santa Cruz Human Services Department, allowing them to use Monterey County's CHERISH Receiving Center for the temporary placement of children removed from their homes, for the term of October 1, 2022 to September 30, 2025, where the County of Santa Cruz will reimburse Monterey County for the placements in an amount not to exceed \$168,510; and
- b. Authorize the Director or Assistant Director of the Department of Social Services to sign up to three amendments to this agreement that do not encompass payment by Monterey County or significantly change the scope of work.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Director or Assistant Director of the Department of Social Services to sign an agreement with the County of Santa Cruz Human Services Department, allowing them to use Monterey County's CHERISH Receiving Center for the temporary placement of children removed from their homes, for the term of October 1, 2022 to September 30, 2025, where the County of Santa Cruz will reimburse Monterey County for the placements in an amount not to exceed \$168,510; and
- b. Authorize the Director or Assistant Director of the Department of Social Services to sign up to three amendments to this agreement that do not encompass payment by Monterey County or significantly change the scope of work.

SUMMARY/DISCUSSION:

The Monterey County Department of Social Services (MCDSS) currently operates the CHERISH Center, a Receiving Center for youth at risk of abuse and/or neglect where they can be placed for up to 72 hours. The Center provides services to reduce the trauma inflicted upon youth who have been removed from their home and provides support through the initial crisis. Currently, operation of the Center is contracted through Aspiranet, a non-profit family services agency.

The Santa Cruz County Human Services Department (SCHSD) has a need and desire to utilize available beds and space in the CHERISH Center as an adjunct to the programs they run themselves. Through this agreement, MCDSS will allow SCHSD use of the CHERISH Center facility within the existing scope of contracted services from Aspiranet.

SCHSD will reimburse MCDSS at a rate of \$80.00 per hour for each child placed in the center, up to a maximum of \$5,760 per child per 72-hour stay for a total not to exceed \$168,510 for the term of the agreement.

OTHER AGENCY INVOLVEMENT:

The Auditor Controller has reviewed and approved this Agreement. County Counsel has approved the Agreement as to form.

FINANCING:

Santa Cruz County will reimburse Monterey County for costs related to their use of the CHERISH Center. There is no cost to Monterey County as a result of the approval of this recommendation.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This agreement correlates to the Health & Human Services Strategic Initiatives adopted by the Board of Supervisors by allowing the Department to partner with Santa Cruz County so foster children in their county are provided with a safe temporary place to stay when removed from their homes by child welfare.

Mark a check to the related Board of Supervisors Strategic Initiatives:

- ☐ Economic Development
- ☐ Administration
- ☒ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Sara Sturtevant, MAII, x4413

Approved by Lori A. Medina, Director, x4430

Attachments: Agreement

Proposed agreement is on file with Clerk of the Board as an attachment to this Board Report.



Monterey County

Item No.

420

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-507

September 27, 2022

Introduced: 9/12/2022

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Approve and authorize the Director or Assistant Director of the Department of Social Services to sign an agreement with the County of Santa Cruz Human Services Department, allowing them to use Monterey County's CHERISH Receiving Center for the temporary placement of children removed from their homes, for the term of October 1, 2022 to September 30, 2025, where the County of Santa Cruz will reimburse Monterey County for the placements in an amount not to exceed \$168,510; and
- b. Authorize the Director or Assistant Director of the Department of Social Services to sign up to three amendments to this agreement that do not encompass payment by Monterey County or significantly change the scope of work.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Director or Assistant Director of the Department of Social Services to sign an agreement with the County of Santa Cruz Human Services Department, allowing them to use Monterey County's CHERISH Receiving Center for the temporary placement of children removed from their homes, for the term of October 1, 2022 to September 30, 2025, where the County of Santa Cruz will reimburse Monterey County for the placements in an amount not to exceed \$168,510; and
- b. Authorize the Director or Assistant Director of the Department of Social Services to sign up to three amendments to this agreement that do not encompass payment by Monterey County or significantly change the scope of work.

SUMMARY/DISCUSSION:

The Monterey County Department of Social Services (MCDSS) currently operates the CHERISH Center, a Receiving Center for youth at risk of abuse and/or neglect where they can be placed for up to 72 hours. The Center provides services to reduce the trauma inflicted upon youth who have been removed from their home and provides support through the initial crisis. Currently, operation of the Center is contracted through Aspiranet, a non-profit family services agency.

The Santa Cruz County Human Services Department (SCHSD) has a need and desire to utilize available beds and space in the CHERISH Center as an adjunct to the programs they run themselves. Through this agreement, MCDSS will allow SCHSD use of the CHERISH Center facility within the existing scope of contracted services from Aspiranet.

SCHSD will reimburse MCDSS at a rate of \$80.00 per hour for each child placed in the center, up to a maximum of \$5,760 per child per 72-hour stay for a total not to exceed \$168,510 for the term of the agreement.

OTHER AGENCY INVOLVEMENT:

The Auditor Controller has reviewed and approved this Agreement. County Counsel has approved the Agreement as to form.

FINANCING:

Santa Cruz County will reimburse Monterey County for costs related to their use of the CHERISH Center. There is no cost to Monterey County as a result of the approval of this recommendation.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This agreement correlates to the Health & Human Services Strategic Initiatives adopted by the Board of Supervisors by allowing the Department to partner with Santa Cruz County so foster children in their county are provided with a safe temporary place to stay when removed from their homes by child welfare.

Mark a check to the related Board of Supervisors Strategic Initiatives:

- ☐ Economic Development
- ☐ Administration
- ☒ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Sara Sturtevant, MAIL, x4413

 for Lori A. Medina

Approved by Lori A. Medina, Director, x4430

Attachments: Agreement

Proposed agreement is on file with Clerk of the Board as an attachment to this Board Report.

CHERISH
(**72**-Hour Receiving Center Access)

AGREEMENT

between

MONTEREY COUNTY
DEPARTMENT OF SOCIAL SERVICES

and

SANTA CRUZ COUNTY
HUMAN SERVICES DEPARTMENT
(SCHSD)

October 1, 2022 – September 30, 2025

AGREEMENT FOR AVAILABILITY OF EMERGENCY PLACEMENT OF MINORS

I. DECLARATION

This agreement is entered into by and between the MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES hereinafter referred to as MCDSS, and SANTA CRUZ COUNTY HUMAN SERVICES DEPARTMENT, hereinafter referred to as SCHSD, for the purpose of coordinating access to the CHERISH Center to place youth who have been removed from their family or youth in placement transition for up to **72 hours**. The purpose of this Agreement is to identify the roles and responsibilities of each of the parties.

II. BACKGROUND

MCDSS, as part of its services to children subjected to abuse and/or neglect, and to assist those children recover from the trauma experienced by removal from their home, provides placement through a **72-hour** Receiving Center ("Center"). SCHSD has a need and desire to utilize available beds and space in that Receiving Center as an adjunct to programs that they may run themselves. MCDSS is willing to make available beds and space accessible to SCHSD for this purpose.

CHERISH is designed to support children through the trauma of removal from their birth families and to ease the transition between placements for children disrupting from Child Welfare Placements. CHERISH provides a supportive, child-friendly place where children can be looked after safely while more thoughtful placements are researched.

III. SCOPE OF SERVICES

SCHSD agrees to:

- Follow established written guidelines and schedules for on-call staff and adhere to MCDSS staff facility access steps. For purposes of this Agreement and placement of SCHSD minors the Center may accept a child from SCHSD in accordance with the following agreements:
 - Only Child Welfare Staff may admit youth to CHERISH and they will:
 - Register the youth by phone, advising the staff of the ages, sex and any special circumstances including medications.
 - Complete the CHERISH Intake Form (Exhibit A)
 - Ensure Youth are advised of their personal rights per W&I 308B¹

¹ [Law section \(ca.gov\):](https://leginfo.ca.gov/)

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC§ionNum=308.

- Sign in as requested by CHERISH Staff
- Advise CHERISH Staff of the status of the child and placement consideration.
- After Hours, if needed, Child Welfare Staff should remain with the child until Child Care Staffing levels are appropriate.
- Pick up youth within **72 hours** and sign appropriate discharge documents.
- Ensure the confidentiality of the Center and not provide the address or location to any case participant.
- Upon Placement of a child in the Center, SCHSD shall provide a contact person and phone number for the appropriate SCHSD staff responsible for that child.

NOTE: The following are considered inappropriate for placement at CHERISH:

1. Homeless youth and runaway youth who are not dependents.
 2. Youth arrested for a crime or status offense.
- Follow established written guidelines on High-Risk Youth (Exhibit B) for purposes of this Agreement and placement of SCHSD minors, reference, duties, obligations set forth in that document regarding MCDSS social workers shall be interpreted to apply to the responsible SCHSD social worker.
 - Ensure youth do not stay more than **72 consecutive hours** related to any one incident.
 - Provide all necessary information to allow Center staff to provide the necessary support.
 - Ensure that a point of contact person is designated and available 24/7 to enhance communication and to ensure timely follow-up.
 - SCHSD is not required to utilize any minimum number of spaces per month or year and understands that *beds/spaces are provided by MCDSS as available only*.

MCDSS agrees to:

- Receive children 24 hours a day, seven days a week from authorized SCHSD staff (ages newborn to eighteen). Assess immediate needs, settle and orient children to the Center. Provision of placement space in the Center is as available only. MCDSS reserves the right to change the exact location of the Center upon giving SCHSD notice of that change in location or operation.

- Ensure that the Center maintains core operational hours of 12:00 AM – 11:59 PM, (24 hours per day) and seven days per week.
- Ensure that the Center has the capacity to care for up to ten (10) children at one time, from newborn to eighteen (18) years of age. Staffing level and facility accommodations will meet the diverse needs of this population, including being able to care for ill and distraught children. Staffing shall be maintained at a ratio of at least one staff person for every three (3) children.
- Conduct a general health history and health inventory (with children of appropriate ages and emotional stability). If Center staff identifies any health situations needing attention, Center staff will contact the SCHSD staff, who will be responsible for taking the child to an appropriate medical facility, unless it is an emergency in which case Center staff will contact 911.
- Assess and document the child's known problem behaviors, medical needs, likes and dislikes (food/special toy).
- Provide assistance, supervision, and support of the children, including, but not limited to providing:
 - Snacks, meals and clean clothing, including sleepwear, if needed;
 - Shower, bathing facilities, basic hygiene and de-lousing services (as appropriate); Supply toothbrushes, shampoo, hygiene goods, etc.
 - Assistance with medications (limited to tracking of medication administration);
 - Age appropriate activities;
 - Observation of children and their interactions with others;
 - Basic mental health screening and case management to assess the immediate needs of children.
- Document and report to SCHSD, any and all significant assessments made by Center staff, as well as documentation of services provided. Information will be provided only to appropriate SCHSD staff.
- Document and maintain a record of services provided.
- Provide bilingual services, as needed and available.
- Provide a safe, clean and child-friendly Center facility that meets the following minimum requirements:
 - Kitchen, laundry, bathroom and bathing facilities

- Office space, meeting and interview rooms
- Play areas
- Segregated sleeping areas to accommodate age/gender appropriate separation

IV. GENERAL PROVISIONS

A. INDEMNIFICATION

MONTEREY COUNTY shall indemnify, defend, and hold harmless **SANTA CRUZ COUNTY**, their officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with **MONTEREY COUNTY's** performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of **SANTA CRUZ COUNTY**. "**MONTEREY COUNTY's** performance" includes **MONTEREY COUNTY's** action or inaction and the action or inaction of **MONTEREY COUNTY's** officers, employees, agents and subcontractors.

SANTA CRUZ COUNTY shall indemnify, defend, and hold harmless **MONTEREY COUNTY**, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with **SANTA CRUZ COUNTY's** performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of **MONTEREY COUNTY**. "**SANTA CRUZ COUNTY's** performance" includes **SANTA CRUZ COUNTY's** action or inaction and the action or inaction of **SANTA CRUZ COUNTY's** officers, employees, agents and subcontractors.

B. INSURANCE PROVISIONS

Insurance Coverage Requirements: Without limiting either Party's duty to indemnify, each Party 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**, including but not limited to premises, personal injuries, products, and completed operations, with a combined single limit of not less than \$1,000,000.00 (one million dollars) per occurrence; and

Comprehensive **Automobile Liability** covering all motor vehicles, including owned, leased, non-owned and hired vehicles, used in providing services under this Agreement, with a combined single limit of not less than \$1,000,000.00 (one million dollars) per occurrence; and

General Insurance Requirements: All insurance required by this Agreement shall be with a company acceptable to both parties and authorized by law to transact insurance business in the State of California. Unless otherwise specified in 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 (3) years following the date the parties complete their performance of services under this Agreement. Each policy shall provide identical coverage for each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance showing each subcontractor has identical insurance coverage.

C. CONFIDENTIALITY AND RECORDS

Confidentiality: Each party, its officers, employees, agents, and subcontractors shall comply with Welfare and Institutions Code Sec. 10850, 45 CFR Sec. 205.50, and all other applicable provisions of state and Federal law which provide for the confidentiality of records and prohibit their being opened for examination for any purpose not directly connected with the administration of public social services. Whether or not covered by W&I Code Sec. 10850 or by 45 CFR Sec. 205.50, confidential medical or personnel records and the identities of clients and complainants shall not be disclosed unless there is proper consent to such disclosure or a court order requiring disclosure. Confidential information gained by either party from access to any such records, and from contact with its clients and complainants, shall be used by either party only in connection with its conduct of the program under this Agreement. Either party shall have access to such confidential information and records to the extent allowed by law, and such information and records in the hands of either party shall remain confidential and may be disclosed only as permitted by law.

Maintenance and Availability of Records: Each party shall prepare and maintain all reports and records that may be required by federal, state or county laws, rules, policies, and regulations, and shall furnish such reports and records to the other party, and to the state and federal governments as required, or upon request of the other party.

Retention of Records: Each party shall maintain and preserve all records related to this Agreement (and shall assure the maintenance of such records in the possession of any third-party performing work related to this Agreement) for a minimum period of five (5) years from the date of final payment under this Agreement. Such records shall be retained beyond the five-year period until any pending litigation, claim, negotiation, audit exception, or other action involving this Agreement is resolved.

D. TERM

This Agreement shall commence effective October 1, 2022 and remain in full force and effect through September 30, 2025 or until terminated as provided herein. Either party may terminate this Agreement by giving thirty (30) days' written notice to the other party.

E. FISCAL

The maximum obligation of SCHSD under this Agreement shall be \$80 per hour of placement in the Center, up to a maximum of **72 hours per child**, per incident, with a 72-hour maximum not to exceed **\$5,760.00** per child, for a total not-to-exceed **\$168,510** for the term of the Agreement. On July 1 of every year of this Agreement, this hourly rate may be subject to an annual cost of living increase/adjustment. MCDSS shall give SCHSD at least thirty (30) days' notice of the applicable adjustment.

MCDSS will submit to SCHSD quarterly billing for any occupancy, and payments shall be made by SCHSD within thirty (30) days of tender of that billing.

Billing Claims will be sent to:

Santa Cruz County Human Services Department
Centralized Contracting Unit
1040 Emeline Ave.
Santa Cruz, CA 95060

Payments will be sent to:

Monterey County DSS
Administrative Services Branch
1000 S. Main Street, Suite 306
Salinas CA, 93901

All payments must be received no later than thirty (30) days after the end of each quarter, or after termination of this Agreement.

SCHSD shall submit a copy of each payment simultaneously to the MCDSS contact listed in V. NOTICE, below.

V. NOTICE

Notice to the parties in connection with this Agreement shall be given personally, or by regular mail, addressed as follows:

Notice to SCHSD:

Robin Luckett, Division Director
Family & Children's Services
County of Santa Cruz Human Services Department
1000 Emeline Ave.

Santa Cruz, CA 95060
Robin.Luckett@santacruzcounty.us

Notice to MCDSS:

Lori A. Medina, Director
Department of Social Services
Department of Social & Employment Services
1000 South Main Street, Suite 111
Salinas, CA 93901

Each party reserves the right to make a reasonable change to the designated contact person and address of its own contact person. Such change shall be required to be in writing and provide at least 30 days' notice to the other party in advance of the change. Such change shall not require an amendment to this Agreement.

(signature page follows)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first herein above written.

BY

Lori A. Medina, Director
Department of Social Services
County of Monterey
medinala@co.monterey.ca.us

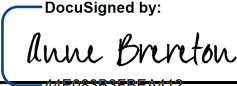
Date

BY

Randy Morris, Director
County of Santa Cruz
Human Services Department
Randy.Morris@santacruzcounty.us

Date

APPROVED AS TO FORM:

DocuSigned by:


44E065B3FBEA412...
Monterey County Deputy County Counsel

9/12/2022 | 1:12 PM PDT

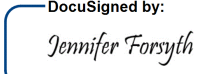
Date

APPROVED AS TO FORM:

Santa Cruz County Deputy County Counsel

Date

APPROVED AS TO FISCAL PROVISIONS:

DocuSigned by:


4E7E657875454AE...
Monterey County Auditor-Controller

9/12/2022 | 2:20 PM PDT

Date

APPROVED AS TO INSURANCE:

Santa Cruz County Risk Manager

Date

EXHIBIT A – MCDSS-SCHSD MOU Receiving Center**CHERISH CENTER INTAKE INFORMATION***(County Social Worker Completes)***Date:** _____
_____ **Am / Pm****Time:****Social Worker Signature:** _____ **Social Worker Print****Name:** _____ **Cell Phone:** _____**Phone:** _____ **Pager:** _____**Fax:** _____**Supervisor Name:** _____**Phone:** _____**After Hours Contact Person:** _____ **Phone:**

Child Name.. Last: _____ **First:** _____**AGE:** _____ **DOB:** _____**Gender:** M / F **Ethnicity:** _____ **Client's Language:** _____ **SS#** _____ **Medi-**
cal #: _____**Coming From:** Bio-Home ☐ Relative ☐ Hospital ☐ Group Home ☐ Foster Family ☐ Awol ☐
Other ☐**Reason for Removal (Please Circle One):** Abuse; Physical, Sexual or Emotional. Abuse of
Sibling. Neglect Caretaker Absence or Caretaker Incapacity. Change of Placement**Please**
Explain: _____

Known issues (Please Circle)

Firesetting: Yes / No Violence toward self: Yes / No Pregnancy: Yes / No
 Violence toward others: Yes / No
 AWOL Risk Yes / No Gang Related History: Yes / No Delinquent Behavior: Yes / No
 Sexually Acting Out History: Yes / No
 Other: _____

Assessment Needs:

Is child taking any **medications**? Yes / No / Unknown If Yes, kind, frequency, dosage _____

Any **Allergies**? Yes / No / Unknown If yes, to what? _____

Dietary Restrictions? Yes / No / Unknown If yes, what? _____

Special Medical Needs? Yes / No / Unknown If yes, what? _____

Can Nurse contact previous Care Giver? Yes / No Please provide information _____

Client is authorized to call: Name and Number: _____

Exit Information

Date of Discharge: _____ Time of Discharge: _____ Am/Pm
 TDM: Yes or No

Discharged to (circle applicable): Parent Relative Foster Family
 Group Home Hospital AWOL
 Other

Discharge to- Name: _____ Address: _____

POLICY FOR ADMITTING HIGH RISK YOUTH

High Risks and Unusual Circumstances may include:

1. Clients under the influence of drugs or alcohol.
2. Clients who have family and/or friends that know the Cherish location.
3. Clients who exhibit high risk behavior, such as threats, violence, suicidal ideation, gang affiliation, etc.
4. Previous clients with known high risk behaviors.

If it is determined before client's arrival that the client presents a high risk, then

1. Cherish staff will inform Cherish Supervisor.
2. Cherish Supervisor will inform Cherish Director.
3. Cherish Supervisor will inform Cherish on-call staff to be prepared to come in if needed in case of an emergency.
4. Cherish Director and DSES Program Manager will consult to draft a safety plan and inform their respective staff.
5. Nurse and Behavioral Health staff will be contacted.
6. DSES Staff who brings in the high risk youth may stay on-site to assist.
7. Safety plan is put into place.

*** For clients under the influence: DSES staff will take client to the hospital first for evaluation. Once cleared, client may be brought to site.

If multiple youth are in the center, then

1. Cherish staff will inform Cherish Supervisor.
2. Cherish Supervisor will call in Cherish on-call staff to work.
3. Cherish Supervisor will inform Cherish Director.
4. DSES Staff may choose to stay on-site to assist if approved by the oncall County Standby Supervisor. County Standby Supervisor also has option of contacting DSES standby worker to assist.

If youth starts to exhibit high risk behavior:

1. Cherish staff contacts Cherish Supervisor.
2. Cherish Supervisor will:
 - a). go to site to assist
 - b). call Cherish on-call staff in to assist
 - c). call DSES standby in to assist
 - d). call Behavioral Health Staff
 - e). call Cherish Director

In extreme cases, if youth's behavior is beyond control, staff will call 911.



Monterey County

Item No.33

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-849

September 27, 2022

Introduced: 9/7/2022

Current Status: General Government -
Consent

Version: 1

Matter Type: General Agenda Item

- a. Approve and authorize the Executive Director of the Monterey County Workforce Development Board (WDB) to execute an Agreement with Arbor E&T, LLC, doing business as Equus Workforce Solutions, in an amount not to exceed \$125,000, to provide WIOA One Stop Operator services to the WDB retroactive to July 1, 2022, for the period of July 1, 2022, through June 30, 2023; and
- b. Approve and authorize the Executive Director of the WDB to execute up to three (3) future amendments of one (1) year each, subject to County Counsel review and approval by the Board of Supervisors, to extend the Agreement on substantially the same terms

RECOMMENDATION:

It is recommended that the Board of Supervisors, in its role as the Chief Elected Official of the Monterey County Workforce Development area:

- a. Approve and authorize the Executive Director of the Monterey County Workforce Development Board (WDB) to execute an Agreement with Arbor E&T, LLC, doing business as Equus Workforce Solutions, in an amount not to exceed \$125,000, to provide WIOA One Stop Operator services to the WDB retroactive to July 1, 2022, for the period of July 1, 2022, through June 30, 2023; and
- b. Approve and authorize the Executive Director of the WDB to execute up to three (3) future amendments of one (1) year each, subject to County Counsel review and approval by the Board of Supervisors, to extend the Agreement on substantially the same terms

SUMMARY:

Background

The Workforce Innovation and Opportunity Act (WIOA) contemplates that the One-Stop service delivery system will be managed by a One-Stop Operator responsible to coordinate the delivery of services by One-Stop partners. WIOA requires the competitive procurement of One-Stop Operators and concurrence of the chief elected official of the Local Area: here, the Board of Supervisors. Following a 2017 RFP process, Arbor E&T, then doing business as ResCare Workforce Services, had entered into a cost reimbursement agreement with the WDB, effective January 1, 2018, to provide One-Stop Operator (OSO) services at the America's Job Centers of California (also called AJCCs and One-Stop service sites) in Monterey County for 18 months for an amount not to exceed \$125,000. The agreement has since been amended to an annual amount of \$100,000 for OSO services but cannot be amended beyond June 30, 2022.

The recommendation to execute a new Agreement with Arbor E&T, now doing business as Equus Workforce Solutions, is the result of a 2022 RFP process. Equus is a well-established, for-profit provider of employment, career center operations, and youth services that currently provides OSO

services in 30 local areas across the country and scored highest in all three RFP selection criteria.

DISCUSSION:

One-Stop Operator Role and Responsibilities

The primary functions of the OSO are to coordinate partners within the Monterey County AJCCs, coordinate delivery of career services and other WIOA services between all One-Stop providers, and to communicate and coordinate regarding the same with Monterey County WDB staff. The OSO is required to have a full-time, physical presence at the Salinas AJCC and provide oversight for the two satellite AJCCs in Marina and Seaside. The OSO is also directly involved in AJCC certification and the development and implementation of the WIOA partner MOU. The OSO fulfills its responsibilities in coordination with and under the direction of the WDB.

Competitive Procurement Process

The Monterey County Contracts/Purchasing Office issued the OSO RFP on behalf of the WDB on February 3, 2022, with a submittal deadline of March 4, 2022. Two responsive proposals were received by the WDB and submitted for evaluation: one by Winter Works, LLC and another by Arbor E&T, LLC, doing business as Equus. A three-person selection committee composed of impartial workforce development subject matter experts was convened to evaluate the proposals based on three criteria, with a total of 100 points possible. Each section's allowable points were distributed across a scale, with higher scores based upon the level of specificity, analysis, and detail provided on the proposers' strategies and experience.

RFP Sections	Possible <u>Points</u>	Winter <u>LLC Score</u>	Arbor E&T <u>LLC Score</u>
Quality of Design	40	32.67	36.33
Agency's Organization and Financial Proposal	40	30.33	35.17
Performance Standards and Data Collection	20	15.67	17.83
Total Score	100	78.67	89.33

The selection committee recommended approval of Arbor E&T, dba Equus, to provide WIOA One Stop Operator services for the WDB. At its meeting on May 26, 2022, the WDB approved the selection of Equus to provide OSO services in the amount of \$100,000 for the period from July 1, 2022, through June 30, 2023.

As part of the WDB's approval of its draft budget on June 23, 2022, the One Stop Operator Agreement was approved in an amount not to exceed \$125,000, with the additional \$25,000 allocated for new OSO services to be provided in the 2022-23 fiscal year. The Agreement will be a combination of cost reimbursement and performance-based contract, with 9.6% of the total amount of the Agreement (\$12,000) held back to ensure the Contractor's achievement of key performance-based outcomes.

WIOA requires the WDB to designate an OSO with the agreement of the chief elected official of the local workforce development area. Accordingly, the WDB seeks the Board's approval, acting in its role as Chief Elected Official of the Monterey County local workforce development area, of the selection of Equus to provide OSO services. The WDB also asks for authorization to extend the Agreement for three additional years on substantially the same terms, subject to County Counsel review and Board of Supervisors' approval of each annual amendment.

Arbor E&T, dba Equus Workforce Solutions

Equus is one of the nation's most comprehensive providers of workforce development services. Their over 50 years of experience span the design and delivery of demand-driven workforce solutions that meet the skilled labor needs of targeted industry sectors. Equus currently provides One-Stop Operator, Adult/Dislocated Worker, and Youth services for the WDB.

Equus' proposal demonstrated extensive experience working with the target populations as well as partnering with WDBs to design and implement new service models and programs customized to fit local needs. Equus also has extensive experience collaborating with Local Area WIOA partners and other service partners in Monterey County.

The WDB's One Stop Operator position receives direct support from Equus' National Director of One-Stop Operations, with additional support from the National Manager of One-Stop Operations and the Regional Director. All of Equus' OSOs have access to the resources and support of the Equus National Service Delivery team, including ongoing trainings and Communities of Practice.

The Agreement

The OSO service provider Agreement with Equus includes the following:

<u>Line Item</u>	<u>Amount</u>	<u>Comments</u>
Personnel	\$98,580	1.0 FTE OSO and .01 FTE Project Accountant
Operations	\$ 3,741	Staff travel, supplies, and other miscellaneous
Indirect	\$10,679	Approved Indirect Cost rate of 10.43% of direct costs
Profit	\$12,000	For achievement of performance-based outcomes
Total	\$125,000	

OTHER AGENCY INVOLVEMENT:

The parties to the Agreement were involved in its development. County Counsel has reviewed the Agreement as to form.

FINANCING:

Workforce Innovation and Opportunity Act (WIOA) Adult, Dislocated Worker, and Youth grant funding in an amount not to exceed \$125,000 will be used to fund the WIOA One Stop Operator Agreement and is budgeted in Fund 021, Appropriations Unit CAO030, Unit 8478. There is no financial impact to the General Fund resulting from approval of this Agreement.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Approval of the OSO Agreement will result in improved and coordinated services to both job seekers and employers throughout Monterey County. The resulting expansion of partnerships will improve the breadth and relevance of services and improve employment outcomes for individuals with barriers to employment.

- √ Economic Development: Through collaboration, strengthen economic development to ensure a diversified and healthy economy.
- √ Health and Human Services: Improve health and quality of life through County-supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

Prepared by: Elizabeth Kaylor, Management Analyst II, 5385

Approved by: Christopher Donnelly, Executive Director, 6644

ATTACHMENTS:

Board Report

2022-23 Arbor E&T One Stop Operator Services Agreement



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-849

September 27, 2022

Introduced: 9/7/2022

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Approve and authorize the Executive Director of the Monterey County Workforce Development Board (WDB) to execute an Agreement with Arbor E&T, LLC, doing business as Equus Workforce Solutions, in an amount not to exceed \$125,000, to provide WIOA One Stop Operator services to the WDB retroactive to July 1, 2022, for the period of July 1, 2022, through June 30, 2023; and
- b. Approve and authorize the Executive Director of the WDB to execute up to three (3) future amendments of one (1) year each, subject to County Counsel review and approval by the Board of Supervisors, to extend the Agreement on substantially the same terms

RECOMMENDATION:

It is recommended that the Board of Supervisors, in its role as the Chief Elected Official of the Monterey County Workforce Development area:

- a. Approve and authorize the Executive Director of the Monterey County Workforce Development Board (WDB) to execute an Agreement with Arbor E&T, LLC, doing business as Equus Workforce Solutions, in an amount not to exceed \$125,000, to provide WIOA One Stop Operator services to the WDB retroactive to July 1, 2022, for the period of July 1, 2022, through June 30, 2023; and
- b. Approve and authorize the Executive Director of the WDB to execute up to three (3) future amendments of one (1) year each, subject to County Counsel review and approval by the Board of Supervisors, to extend the Agreement on substantially the same terms

SUMMARY:

Background

The Workforce Innovation and Opportunity Act (WIOA) contemplates that the One-Stop service delivery system will be managed by a One-Stop Operator responsible to coordinate the delivery of services by One-Stop partners. WIOA requires the competitive procurement of One-Stop Operators and concurrence of the chief elected official of the Local Area: here, the Board of Supervisors. Following a 2017 RFP process, Arbor E&T, then doing business as ResCare Workforce Services, had entered into a cost reimbursement agreement with the WDB, effective January 1, 2018, to provide One-Stop Operator (OSO) services at the America's Job Centers of California (also called AJCCs and One-Stop service sites) in Monterey County for 18 months for an amount not to exceed \$125,000. The agreement has since been amended to an annual amount of \$100,000 for OSO services but cannot be amended beyond June 30, 2022.

The recommendation to execute a new Agreement with Arbor E&T, now doing business as Equus Workforce Solutions, is the result of a 2022 RFP process. Equus is a well-established, for-profit provider of employment, career center operations, and youth services that currently provides OSO services in 30 local areas across the country and scored highest in all three RFP selection criteria.

DISCUSSION:**One-Stop Operator Role and Responsibilities**

The primary functions of the OSO are to coordinate partners within the Monterey County AJCCs, coordinate delivery of career services and other WIOA services between all One-Stop providers, and to communicate and coordinate regarding the same with Monterey County WDB staff. The OSO is required to have a full-time, physical presence at the Salinas AJCC and provide oversight for the two satellite AJCCs in Marina and Seaside. The OSO is also directly involved in AJCC certification and the development and implementation of the WIOA partner MOU. The OSO fulfills its responsibilities in coordination with and under the direction of the WDB.

Competitive Procurement Process

The Monterey County Contracts/Purchasing Office issued the OSO RFP on behalf of the WDB on February 3, 2022, with a submittal deadline of March 4, 2022. Two responsive proposals were received by the WDB and submitted for evaluation: one by Winter Works, LLC and another by Arbor E&T, LLC, doing business as Equus. A three-person selection committee composed of impartial workforce development subject matter experts was convened to evaluate the proposals based on three criteria, with a total of 100 points possible. Each section's allowable points were distributed across a scale, with higher scores based upon the level of specificity, analysis, and detail provided on the proposers' strategies and experience.

RFP Sections	Possible <u>Points</u>	Winter <u>LLC Score</u>	Arbor E&T <u>LLC Score</u>
Quality of Design	40	32.67	36.33
Agency's Organization and Financial Proposal	40	30.33	35.17
Performance Standards and Data Collection	20	15.67	17.83
Total Score	100	78.67	89.33

The selection committee recommended approval of Arbor E&T, dba Equus, to provide WIOA One Stop Operator services for the WDB. At its meeting on May 26, 2022, the WDB approved the selection of Equus to provide OSO services in the amount of \$100,000 for the period from July 1, 2022, through June 30, 2023.

As part of the WDB's approval of its draft budget on June 23, 2022, the One Stop Operator Agreement was approved in an amount not to exceed \$125,000, with the additional \$25,000 allocated for new OSO services to be provided in the 2022-23 fiscal year. The Agreement will be a combination of cost reimbursement and performance-based contract, with 9.6% of the total amount of the Agreement (\$12,000) held back to ensure the Contractor's achievement of key performance-based outcomes.

WIOA requires the WDB to designate an OSO with the agreement of the chief elected official of the local workforce development area. Accordingly, the WDB seeks the Board's approval, acting in its role as Chief Elected Official of the Monterey County local workforce development area, of the selection of Equus to provide OSO services. The WDB also asks for authorization to extend the Agreement for three additional years on substantially the same terms, subject to County Counsel review and Board of Supervisors' approval of each annual amendment.

Arbor E&T, dba Equus Workforce Solutions

Equus is one of the nation's most comprehensive providers of workforce development services. Their over 50 years of experience span the design and delivery of demand-driven workforce solutions that meet the skilled labor needs of targeted industry sectors. Equus currently provides One-Stop Operator, Adult/Dislocated Worker, and Youth services for the WDB.

Equus' proposal demonstrated extensive experience working with the target populations as well as partnering with WDBs to design and implement new service models and programs customized to fit local needs. Equus also has extensive experience collaborating with Local Area WIOA partners and other service partners in Monterey County.

The WDB's One Stop Operator position receives direct support from Equus' National Director of One-Stop Operations, with additional support from the National Manager of One-Stop Operations and the Regional Director. All of Equus' OSOs have access to the resources and support of the Equus National Service Delivery team, including ongoing trainings and Communities of Practice.

The Agreement

The OSO service provider Agreement with Equus includes the following:

<u>Line Item</u>	<u>Amount</u>	<u>Comments</u>
Personnel	\$98,580	1.0 FTE OSO and .01 FTE Project Accountant
Operations	\$ 3,741	Staff travel, supplies, and other miscellaneous
Indirect	\$10,679	Approved Indirect Cost rate of 10.43% of direct costs
Profit	\$12,000	For achievement of performance-based outcomes
Total	\$125,000	

OTHER AGENCY INVOLVEMENT:

The parties to the Agreement were involved in its development. County Counsel has reviewed the Agreement as to form.

FINANCING:

Workforce Innovation and Opportunity Act (WIOA) Adult, Dislocated Worker, and Youth grant funding in an amount not to exceed \$125,000 will be used to fund the WIOA One Stop Operator Agreement and is budgeted in Fund 021, Appropriations Unit CAO030, Unit 8478. There is no financial impact to the General Fund resulting from approval of this Agreement.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Approval of the OSO Agreement will result in improved and coordinated services to both job seekers and employers throughout Monterey County. The resulting expansion of partnerships will improve the breadth and relevance of services and improve employment outcomes for individuals with barriers to employment.

- √ Economic Development: Through collaboration, strengthen economic development to ensure a diversified and healthy economy.
- √ Health and Human Services: Improve health and quality of life through County-supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

Prepared by: Elizabeth Kaylor, Management Analyst II, 5385

Approved by: Christopher Donnelly, Executive Director, 6644



ATTACHMENTS:

Board Report

2022-23 Arbor E&T One Stop Operator Services Agreement

**Agreement between the
Monterey County Workforce Development Board (WDB) and
Arbor E&T, LLC, dba Equus Workforce Solutions, for
Provision of WIOA One-Stop Operator Services**

I. DECLARATION

This Agreement is entered into by and between the MONTEREY COUNTY WORKFORCE DEVELOPMENT BOARD, (hereinafter referred to as “WDB”) and Arbor E&T, dba Equus Workforce Solutions (hereinafter referred to as “Contractor”).

The purpose of this Agreement is to formalize the working relationship and establish the roles and responsibilities of the WDB and Contractor, as required by the Workforce Innovation and Opportunity Act (WIOA), for One-Stop Operator services.

The scope of services of this Agreement is specified in Exhibit A. The budget of this Agreement is specified in Exhibit B. Exhibits A through F are incorporated herein by reference.

II. BACKGROUND

The Monterey County WDB, created by the WIOA, is charged with overseeing the allocation of WIOA funds and oversight of the WIOA funded program operations of the America’s Job Center of California (AJCC) / One-Stop delivery system in Monterey County.

By entering into this Agreement, Contractor agrees to provide One-Stop Operator services for jobseekers, employers/businesses, and WIOA-mandated One Stop partners. Contractor agrees to adhere to all Monterey County Workforce Development Board policies set forth in Exhibit E.

III. GENERAL AREA OF RESPONSIBILITY

The general areas of responsibility between the parties to this Agreement and the scope of services to be provided are detailed in Exhibit A of this Agreement. Pursuant to Exhibit A, the parties expressly agree that Contractor shall be bound to comply with all the requirements of the WIOA as set forth in Exhibits A and D, and that the WDB shall oversee such activities.

This document and Exhibits A through F contain the entire Agreement of the parties and supersedes all negotiations, verbal or otherwise and any other agreement or any established practice(s) between the parties hereto.

IV. GENERAL PROVISIONS

A. TERM

This Agreement shall be effective retroactive to **July 1, 2022** and remain in full force and effective through **June 30, 2023**, unless sooner terminated as provided herein. WDB may terminate this Agreement by giving thirty (30) days' written notice to Contractor, with or without cause. If WDB terminates this Agreement, WDB may proceed to direct available funding to another provider for the One-Stop Operator, subject to review and approval by the Chief Elected Official for the local Monterey County Workforce Development area, the Monterey County Board of Supervisors. This Agreement is contingent upon available funding.

In accordance with the WIOA, the WDB shall have the right to renew this Agreement without further solicitation of bids for three (3) additional one (1) year terms, for 2023-24, 2024-25, and 2025-26, with thirty (30) days written notice to Contractor before the expiration of the initial term or the current renewal term of the Agreement. A renewal determination will be made by the WDB, contingent upon the satisfactory achievement of agreed upon performance measures, availability of funding, and agreement to the renewal determination by the WDB and the Chief Elected Official – the Monterey County Board of Supervisors – of the local Monterey County workforce development area. In the event the Monterey County WDB exercises its right of renewal, all terms and conditions, requirements and specifications of this Agreement shall remain substantially the same and apply during the renewal terms. This Agreement will not automatically renew.

B. CONTRACT ADMINISTRATORS

Contractor hereby designates Regional Director Adrineh Terantonians of Arbor E&T, LLC, dba Equus Workforce Solutions, as its Contract Administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of Contractor shall be under the direction of, or shall be submitted to Arbor E&T's Contract Administrator.

WDB hereby designates the Executive Director of the WDB as its Contract Administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of WDB shall be under the direction of, or shall be submitted to the WDB Contract Administrator.

Either party may change its designated Contract Administrators upon giving notice pursuant to Section G - Notice.

C. FISCAL / REPORTING

1. Funding available for the project term of July 1, 2022 through June 30, 2023 is \$125,000. The budget summary is attached as Exhibit B.
2. WDB shall serve as the fiscal agent for this Agreement and as such will bear primary responsibility for expenditure reporting to the State, processing of Contractor's reimbursements, and tracking of funds.

3. Subject to receipt of funds from the State, the WDB shall approve the reimbursement for services rendered as outlined in Exhibit B of this Agreement. The WDB will provide Contractor with the invoice format for submitting monthly claims for reimbursement. WDB shall reimburse Contractor for allowable expenditures claimed, within forty-five (45) days after timely receipt of Contractor's properly completed and documented invoice for reimbursement or as soon thereafter as is reasonable, provided that Contractor is following the terms and conditions of this agreement. Contractor may not assign any additional costs or fees to any participants or other funding sources outside those identified within this Agreement.
4. Contractor's invoice to request reimbursement for costs incurred must report all expenses as either Adult, Dislocated Worker, or Youth. This reporting category may change based on direction from the State of California's Employment Development Department. WDB will notify Contractor of any changes.
5. Contractor will provide services under this Agreement and manage the program and service delivery to the target customer population as set forth in the attached Exhibit A, Scope of Services.

D. COMMUNICATION

Contractor shall provide the specified services through processes established by the WDB and in compliance with applicable local, State, and Federal regulations. Contractor shall provide all duties and services to system partners, job seekers, and employers/businesses as specified in the attached Exhibit A. Meetings between Contractor and WDB shall be scheduled, as needed, to discuss Contractor performance and other issues that affect either party to this Agreement.

Contractor shall work cooperatively with the WIOA Title I Adult, Dislocated Worker and Youth service providers appointed by the WDB, as well as all partners specified in the MOU, found online at [19-0888 - WIOA Partner MOU \(montereycountywdb.org\)](https://montereycountywdb.org).

At a minimum, during the term of this Agreement, Contractor will provide management reports to the WDB no later than one week prior to the meeting of the WDB committees for the reporting month. Contractor shall use the monthly report template provided by the WDB and included as Exhibit C to outline customer visits, partner referrals, and customer satisfaction results achieved to date, and shall be used by the WDB in assessing program performance.

E. INDEMNIFICATION

Contractor shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorney's fees) occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm or corporation for damage, injury, or death arising out of or connected with the Contractor's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the

County. "Contractor's performance" includes Contractor's action or inaction and the action or inaction of Contractor's officers, employees, agents, and subcontractors.

F. INSURANCE

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 Monterey 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 Monterey County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

Qualifying Insurers: All coverages, 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.

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

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

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

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 statutory limits or \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

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.

Other Insurance Requirements: All insurance required by this Agreement shall be with a company acceptable to the WDB and Monterey 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 WDB and Monterey 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 WDB and Monterey County, their 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 WDB and Monterey 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 WDB, Contractor shall file certificates of insurance with the Monterey County's Contract Administrator and 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 the WDB and Monterey County, annual certificates to Monterey County's Contract Administrator and Monterey County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, the WDB or Monterey 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 the WDB, at its sole discretion, to terminate this Agreement immediately.

G. NOTICE

Notice to the parties in connection with this Agreement shall be given personally, by email or by regular mail addressed to each of the following:

Regional Director Adrineh Terantonians
Arbor E&T, dba Equus Workforce
Solutions

Executive Director
Monterey County
Workforce Development Board (WDB)

344 Salinas Street
Salinas, CA 93901
(818) 480-1109
Adrineh.Terantonians@EquusWorks.com

344 Salinas Street, Suite 101
Salinas, CA 93901
Phone (831) 759-6644
Donnellyc@co.monterey.ca.gov

With a notice copy to:
Office of General Counsel
805 N. Whittington Pkwy.
Louisville, KY 40222

H. CONSTRUCTION, INTERPRETATION AND INTEGRATION OF AGREEMENT

WDB and Contractor agree that each party has fully participated in the review and drafting 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. 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 Agreement shall be governed by and interpreted under the laws of the State of California and U.S. Department of Labor. Venue of litigation arising under this Agreement shall be in the Superior Court of California, Monterey County.

I. NON-EXCLUSIVE AGREEMENT

This Agreement is non-exclusive. The WDB expressly reserves the right to contract with other entities for provision of the same or similar services.

J. EXHIBITS

The following exhibits are attached hereto and incorporated by reference:

1. Exhibit A – Scope of Services
2. Exhibit B – Budget Summary
3. Exhibit C – Monthly Reporting Template
4. Exhibit D – WIOA Compliance, Certifications, and Assurances
5. Exhibit E – Workforce Development Board Policies
6. Exhibit F – Addendum

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first herein above written.

BY _____ Date _____
Christopher Donnelly
Executive Director
Monterey County Workforce Development Board

BY _____ Date _____
Mark Douglass
President
Equus Workforce Solutions

EXHIBIT A
SCOPE OF SERVICES
WIOA One Stop Operator
July 1, 2022 through June 30, 2023

- I. **PROJECT OVERVIEW:** The purpose of this agreement is to formalize the working relationship and establish the roles and responsibilities of the Monterey County Workforce Development Board (WDB) and Arbor E&T, dba Equus Workforce Solutions (Contractor), for the provision of WIOA One-Stop Operator services. The Workforce Innovation and Opportunity Act (WIOA) establishes a requirement that WIOA programs be coordinated by a One Stop Operator.
- II. **PROJECT PERIOD:** July 1, 2022 through June 30, 2023.
- III. **COORDINATION OF SERVICES AND DESIGNATED SERVICE AREAS:** Contractor shall carry out One Stop Operator services for the America's Job Center of California (AJCC)/One-Stop delivery system in Monterey County at the following designated service areas, by ensuring WIOA One-Stop services are available to customers.

The WDB expects that Contractor will have a full-time physical presence at the comprehensive AJCC/One-Stop and the new Business Services Center in Salinas, and will provide oversight of the two satellite locations in Marina and Seaside, and will fulfill its responsibilities in coordination with and under the direction of the WDB.

Service Site	Address	Phone	Hours of Operation
Salinas Comprehensive AJCC	344 Salinas Street, Salinas, CA 93901	(831) 796-3600	Monday – Friday 8 a.m. to 5 p.m. Evening hours to be arranged.
Business Services Center	344 Salinas Street, Salinas, CA 93901	(To be arranged.)	Monday – Thursday 8 a.m. to 7 p.m. Evening hours to be arranged.
Marina Satellite AJCC	Monterey Peninsula College Education Center, 298 12 th Street, Marina 93933	(831) 587-2858	Monday – Friday 9 a.m. to 7 p.m.
Seaside Satellite AJCC	Monterey Adult School 1295 La Salle Avenue, Seaside, CA 93955	(831) 356-8186	Monday – Friday 8:30 a.m. to 5 p.m. Evening hours to be arranged.

IV. **DUTIES AND RESPONSIBILITIES:**

A. **One Stop Operator Role and Responsibilities:**

The primary functions of the One-Stop Operator are to ensure coordination of partners within the Monterey County AJCCs, ensure the smooth daily operation of the AJCCs, coordinate the delivery of career services and other WIOA services between all AJCC/One-Stop providers, and to communicate and coordinate regarding the same with WDB staff. The WDB defines Contractor's responsibilities as follows, in accordance with WIOA requirements and WDB priorities:

- i. Provide functional coordination of all AJCC/One-Stop delivery system required services, including all services provided by entities that have entered the partner Memorandum of Understanding (MOU), in accordance with WIOA. The MOU can be located online at: www.montereycountywdb.org;

- ii. Coordinate with the MCWDB's Adult and Dislocated Worker program provider and other AJCC system stakeholders to mitigate the health-related impacts of Covid-19 and large numbers of business clients and job seekers while ensuring equitable access to services;
- iii. Coordinate AJCC/One-Stop activities with WDB staff;
- iv. Provide oversight for a new Business Services Center at 344 Salinas Street.
 - a. Coordinate Business Services Center activities with WDB and service provider staff.
- v. Foster an integrated organizational structure that is market driven and offers value-added services to job seekers;
- vi. Promote AJCC/One-Stop partner participation in collective accountability that recognizes system-wide WIOA Common Measures performance outcomes in addition to individual partner program outcomes;
- vii. Provide AJCC/One-Stop partners with information and communication needed for their optimal performance as part of the AJCC/One-Stop delivery system;
- viii. Maintain AJCC and Business Services Center customer satisfaction ratings of 95% or higher by working closely with the WDB Executive Director, the WDB's service providers and One Stop partners.
- ix. Serve as the lead and attend all meetings of Monterey County WDB's Continuous Quality Improvement (CQI) teams. The One Stop Operator will develop an integrated services process with customer flows driven by feedback from both business/employer and job seeker customers, in addition to performing the specific CQI-related services described in Section F, One Stop Operator Continuous Quality Improvement (CQI) Activities.
- x. Promote adoption of creative and innovative methods and best practices in the delivery of required services;
- xi. Ensure that the comprehensive AJCC meets the certification requirements as detailed in the Workforce Services Directive WSD20-08, AJCC Comprehensive and Affiliate/Specialized Certification: [AJCC Comprehensive and Specialized Certification - Directive Template.docx](#).
- xii. Support WDB initiatives by coordinating with the AJCC/One-Stop partners to direct customers to career pathways in identified priority industry sectors;
- xiii. Assure the delivery of services to individuals at the AJCC/One-Stop with limited English proficiency, disabilities, or other significant barriers;
- xiv. Educate partners on, and assist to implement and certify the use of WDB approved internal operational policies and guidelines governing the AJCC/One-Stop (e.g., days/hours of operation, customer service expectations, etc.) that will outline the responsibilities and objectives of the AJCC/One-Stop partners;
- xv. Ensure that AJCC/One-Stop partners follow and maintain compliance with any current and future WDB policies, especially those that concern Equal Opportunity in the provision of and access to AJCC/One-Stop services, and the Americans with Disabilities Act to ensure the AJCC/One-Stop is accessible to individuals with disabilities;
- xvi. Enforce Monterey County WDB procedural, conduct, and appearance policies governing the AJCCs

- xvii. Ensure that all partners co-located at the AJCC/One-Stop implement and execute priority of service for qualifying veterans and/or their eligible spouses; recipients of public assistance; other low-income individuals; or individuals who are basic skills deficient;
- xviii. Ensure monthly achievement of the performance-based outcomes agreed upon by the Contractor and WDB, to be evaluated quarterly for performance-based outcome payment purposes. Contractor understands and agrees that a portion of compensation for services rendered pursuant to this agreement, in the total amount of \$12,000, is based on Contractor achieving or exceeding the following performance-based outcomes each month as shown on the Performance-Based Outcome table in Exhibit B, Budget Summary. It is understood by the parties that Contractor's failure to meet the performance goals listed below will result in the reduction of Contractor's compensation:
 - a. Collect customer satisfaction surveys for all AJCC locations and provide monthly reports to the WDB on survey results;
 - b. Provide monthly reports on partner responsibilities and contributions per the MOU; and
 - c. Provide monthly and quarterly partner meetings and status reports.
- xix. Identify professional development needs of workforce system staff and coordinate staff training with WDB Regional Training Coordinator to ensure AJCC/One Stop partners can adequately perform assigned roles and have functional knowledge of the policies, procedures, and unique characteristics of all co-located partner programs while maintaining cultural competency;
 - a. All Title 1 staff, including the One Stop Operator, are required to have a minimum of 40 hours per year of professional development relating to WIOA-funded services, which may include, without limitation, training in the following topic areas:
 - WIOA eligibility, policies and procedures, and performance measurement
 - Providing WIOA services in a virtual environment
 - Connecting WIOA customers to career pathways
 - Continuous quality improvement of WIOA services
 - b. This training will be coordinated by the Regional Training Coordinator or his/her designee;
- xx. Ensure non-discrimination and equal opportunity in all programs and services delivered at the AJCC/One-Stop. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment based on race, color, religion, sex, national origin, disability, age, political affiliation, marital status, sexual orientation or identity, medical conditions or military/veteran status, and each customer shall have such rights as are available under any applicable federal, state, or local law prohibiting discrimination;
- xxi. Support any other Monterey County WDB grant-funded projects or initiatives.

B. WDB Role and Responsibilities:

The Monterey County WDB, a government entity created by WIOA, is charged with overseeing the allocation of WIOA funds and the WIOA-funded program operations of the America's Job Center of California (AJCC/One Stop delivery system in Monterey County. The WDB shall:

- i. Provide Contractor with information and guidance on the Local and Regional Plan and priorities;

- ii. Provide Contractor with labor market and industry cluster information, especially on targeted industry clusters of interest to the WDB and high priority occupations;
- iii. Keep the Contractor informed on industry partnerships, incumbent worker grants, and other discretionary and/or competitive funds obtained, and activities conducted with those funds;
- iv. Provide Contractor with reports on oversight monitoring and evaluation of AJCC/One-Stop partners and activities;
- v. Keep Contractor fully apprised on WDB policies and initiatives; and
- vi. Assess Contractor's performance. If the Contractor is not meeting expected performance levels, WDB staff may impose corrective action plans, sanctions and/or conduct additional monitoring to ensure that Contractor meets performance outcomes. Contractor's failure to meet expected performance levels is cause of termination of this agreement.

C. One Stop Operator Coordination of Partners:

- i. Communication: Contractor is the point of contact regarding issues that are substantive to the AJCC/One-Stop partners regarding the operations in the AJCC/One-Stop.
- ii. Partner Meetings: Contractor shall work with WDB staff to convene and facilitate regular partner meetings to address issues affecting the delivery of services (e.g., partner collaboration, process improvement, improvement of customer service, development of Career Pathways, etc.).
Specifically, Contractor shall:
 - 1) Convene partner meetings on a (to-be) determined schedule to discuss and share general information; updates to the WIOA and local programs; AJCC/One-Stop visitor traffic and activities; performance outcomes; and continuous improvement recommendations;
 - 2) Ensure meeting dates, times, and locations are mutually agreed upon by attendees;
 - 3) Provide meeting notes to attendees after each meeting;
 - 4) Ensure relevant stakeholders are invited and engaged; and
 - 5) Report back to the WDB on any specific projects/initiatives/data, as requested.
 - 6) Develop a schedule and invite list for partner meetings by October 15, 2022.
- iii. Customer Service Flow: Contractor will develop, in coordination with system partners and parties to the partner MOU, a customer service flow chart for the AJCC by October 15, 2022.
- iv. Performance: Contractor is responsible for assisting the AJCC/One Stop partners to achieve WIOA common performance outcomes.
- v. Staff Training: In coordination with the designated Regional Training Coordinator, Contractor will develop a training plan to include initial and ongoing training topics and schedule of projected training dates by October 15, 2022.

D. One Stop Operator and Referrals to WIOA Partners:

Contractor is a mandated partner in the America's Job Center of California (AJCC) / One-Stop delivery system. As such, Contractor is part of a continuum of services and must work in collaboration with WIOA required partners, as required under the Memorandum of Understanding (MOU) between the WDB and the partners of the AJCC / One-Stop delivery system. Contractor will be expected to develop or maintain appropriate mechanisms of referrals to ensure that participants can access the services that they require to support their success. Contractor will be expected to identify areas of participant need apart from WIOA services and to refer participants to appropriate agencies to mitigate their needs. Reference Partners & Community Links online at: www.montereycountywdb.org/partners/.

E. One Stop Operator Reporting:

- i. At a minimum, during the term of this Agreement, Contractor will provide management reports to the WDB no later than one week prior to the meeting of the WDB committees for the reporting month. Contractor will be required to report its monthly performance using Exhibit C – Monthly Reporting Template, of this agreement. Contractor will meet the goal of submitting all monthly updates no later than the close of business on the due date.
- ii. Contractor will track and report monthly to the WDB on the following measures:
 1. AJCC/One-Stop visitor traffic, overall usage, and service information;
 2. Referrals to AJCC/One-Stop partner agencies;
 3. Customer satisfaction for business/employers and job seekers;
 4. AJCC/One-Stop partner training participation; and
 5. Operations, performance and continuous improvement opportunities/recommendations.
- iii. Contractor is responsible for assisting the AJCC/One-Stop partners with reporting the WIOA Common Measures performance outcomes.
- iv. Contractor shall submit a closeout packet to the WDB fiscal staff within fifteen (15) days of receipt of final payment on this agreement. The closeout packet will consist of closeout summary of WIOA expenditures, subrecipient release form, subrecipient assignment of funds, rebates and credits form, property certification form and property inventory listing (as applicable). The forms will be provided by WDB staff prior to the closeout period. Submission of the closeout documents does not prevent WDB from collecting any disallowed costs uncovered during an audit.
- v. Contractor will submit additional reports upon request by WDB staff.
- vi. In addition, regional collaboration and reporting will be required under WIOA. Contractor will be required to participate in regional workforce development tasks. The level of participation and roles that Contractor will play will be determined by the WDB.
- vii. WDB will be responsible for reporting to the State and will field all requests from the Chief Elected Official—the County Board of Supervisors, WDB members, the media, and other interested stakeholders. Contractor will be expected to respond to reporting requests made by the WDB in a prompt and timely manner.

F. One Stop Operator Continuous Quality Improvement (CQI) Activities:

Contractor shall perform ongoing analyses of AJCC/One Stop operations and shall conduct appropriate problem solving, continuous improvement, and corrective action activities to include:

- i. Contractor will develop a customer satisfaction survey and other satisfaction measurement tools for presentation to and approval by the Executive Committee on or before October 15, 2022.

- ii. Contractor will identify and convene partners for participation in a CQI team.

G. Evaluation of Contractor

Authorized Federal, State and County representatives shall have the right to monitor, assess, or evaluate Contractor's performance pursuant to this agreement by any means including, but not limited to, inspections of premises, records, reports, audits, and interviews with Contractor, Contractor's employees and agents, and WIOA participants.

H. Records and Audits of Contractor:

- i. **Establishment and Maintenance of Records:** Contractor shall maintain records, including, but not limited to books, financial records, supporting documents, statistical records, personnel, property, and all other pertinent records sufficient to properly reflect:
 - 1. All direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this agreement; and
 - 2. All other matters covered by this agreement. Such records shall be maintained in accordance with requirements now or hereafter prescribed by the WDB.
- ii. **Preservation of Records:** Contractor shall preserve and make available its records for three (3) years from the date of final payment of this agreement. If at the end of the three (3) years, there is litigation or an audit involving those records, Contractor will retain records until the resolution of such litigation or audit.

I. Branding:

WIOA-funded programs will follow federal, state, and WDB branding guidelines. Contractor will not use its brand or promote its own organization without the explicit permission of the WDB. Contractor shall use WDB approved logo in all promotional, advertisement, and program related materials relative to the services under this agreement. All materials shall acknowledge the WDB and its role as the source of funding.

J. Budget Modification:

If Contractor requests, in writing, a change in Exhibit B – Budget Summary, the WDB's Executive Director, or his or her designee, may authorize, in writing, adjustments of the dollar amount to cost categories or any line item, so long as the total amount of compensation under this agreement remains unchanged. A written request for a budget modification will not be required as long as Contractor is within 10% of the line item in question. Budget modifications or transfer of funds affecting performance benchmarks is prohibited.

K. Dispute Resolution

Contractor shall identify and facilitate the timely resolution of complaints, problems, and other issues, by following the dispute resolution process outlined in the partner MOU, accessible online at: www.montereycountywdb.org.

EXHIBIT B
BUDGET SUMMARY
WIOA One Stop Operator
July 1, 2022 through June 30, 2023

ONE-STOP OPERATOR WORKFORCE INNOVATION AND OPPORTUNITY ACT	
Organization:	Arbor E&T, LLC dba Equus Workforce Solutions
Contract Year	July 1, 2022 through June 30, 2023

OPERATING COSTS				
	Salary	FTE Allocated to Contract		Total Cost to Contract
A. SALARIES AND FRINGE BENEFITS				
Position Title				
One-Stop Operator	70,000	100.00%		\$ 70,000
Project Accountant	95,000	10.00%		\$ 9,500
Fringe Benefits			24.00%	\$ 19,080
Subtotal Salaries and Fringe Benefits				\$ 98,580
B. OTHER OPERATING				
Advertising				\$ -
Audit				\$ 189
Insurance				\$ 434
Payroll fees				\$ 250
Other (Quickbase fees)				\$ 420
Postage				\$ -
Staff Development				\$ -
Staff Travel				\$ 1,878
Supplies (Not Testing)				\$ 570
Telephone				
Other (Equipment)				\$ -
Subtotal Other Operating				\$ 3,741
C. Indirect Cost 10.43%				\$ 10,679
D. Profit				\$ 12,000
TOTAL BUDGET				\$ 125,000

One Stop Operator (OSO) Performance-Based Outcome Budget

(See above OSO Line-Item Budget, Section D. Profit)

This budget pertains to the period from July 1, 2022 through June 30, 2023 and provides payment amounts for each quarterly performance-based outcome as described in the table below.

One Stop Operator Performance-Based Outcome Goals for July 1, 2022 through June 30, 2023	Amount Payable per Quarter	Total Fee
1. Collect customer satisfaction surveys for all AJCC locations and provide monthly reports to WDB on survey results.	\$1,000	\$4,000
2. Provide monthly reports on partner responsibilities and contributions per MOU.	\$1,000	\$4,000
3. Provide monthly and quarterly partner meetings and status report.	\$1,000	\$4,000
Total Performance-Based Compensation Payment Available		\$12,000

Sample Invoice

WIOA OSO 2022-23					
Monterey County Workforce Development Board c/o Fiscal Manager 168 West Alisal Street, 3rd Floor Salinas, CA 93901 Agency: Name of Agency here Address of agency here City, State, Zip code			Invoice #: 100 Date: September 1, 2022 Expenditure for the month of: Jul-22		
Budget Item	Current Expenditures	YTD Expenditures	Total Budget	Remaining Budget	% Expended
A. Salaries and Fringe Benefits					
Salaries	\$0.00	\$0.00	\$0.00	\$0.00	0%
Fringe Benefits	\$0.00	\$0.00	\$0.00	\$0.00	0%
B. Other Operating					
Advertising		\$0.00	\$0.00	\$0.00	0%
Audit		\$0.00	\$0.00	\$0.00	0%
Insurance		\$0.00	\$0.00	\$0.00	0%
Payroll fees		\$0.00	\$0.00	\$0.00	0%
Other (Quickbase fees)		\$0.00	\$0.00	\$0.00	0%
Postage		\$0.00	\$0.00	\$0.00	0%
Staff Development		\$0.00	\$0.00	\$0.00	0%
Staff Travel		\$0.00	\$0.00	\$0.00	0%
Supplies (Not Testing)		\$0.00	\$0.00	\$0.00	0%
Telephone		\$0.00	\$0.00	\$0.00	0%
Other (Equipment)		\$0.00	\$0.00	\$0.00	0%
C. Indirect Costs					
	\$0.00	\$0.00	\$0.00	\$0.00	0%
D. PBO/Profit					
	\$0.00	\$0.00	\$0.00	\$0.00	0%
TOTAL BUDGET					
	\$0.00	\$0.00	\$0.00	\$0.00	0%

Monthly Obligations:	
Monthly Program Income:	
Accrued Expenditures:	

EXHIBIT C
MONTHLY REPORTING TEMPLATE
One Stop Operator Services
July 1, 2022 through June 30, 2023

Reporting Month:	Current Month			Year To Date		
	Salinas	Marina	Seaside	Salinas	Marina	Seaside
1. Number of AJCC visits						
2. Number of AJCC visits by partner, as follows:						
EDD						
DOR						
WIOA - Adult						
WIOA - DW						
WIOA - Youth						
CalWORKS (TANF)						
Adult Education						
Community College						
Senior Community Svcs Employment Program						
Other Partners:						
Other Partners:						
3. Number of referrals to partners, as follows:						
EDD						
DOR						
WIOA - Adult						
WIOA - DW						
WIOA - Youth						
CalWORKS (TANF)						
Adult Education						
Community College						
Senior Community Svcs Employment Program						
Other Partners:						
Other Partners:						
4. Customer satisfaction rating, as follows:						
Job Seekers surveys completed						
Businesses surveys completed						
% of customers satisfied with AJCC						

WIOA - Workforce Innovation and Opportunity Act (WIOA) Title I

AJCC - America's Job Center of California (AJCC) / One-Stop delivery system, located in Monterey County

EDD - Employment Development Department

DOR - Department of Rehabilitation

EXHIBIT D

GENERAL CONDITIONS, ASSURANCES AND CERTIFICATIONS WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)

The following applies to all programs and/or projects funded under the Workforce Innovation and Opportunity Act (WIOA) conducted by Arbor E&T, LLC, hereinafter referred to as "Contractor."

1. COMPLIANCE

In performance of this Agreement, Contractor will fully comply with:

- a. The provisions of the Workforce Innovation and Opportunity Act (WIOA), (29 U.S.C. §§ 3101- 3361 (2014), WIOA Final Regulations, and all legislation, regulations, directives, policies, procedures and amendments issued pursuant thereto.
- b. All State legislation and regulations to the extent permitted by federal law and all policies, directives and/or procedures, which implement WIOA.
- c. Title 2, Code of Federal Regulations (C.F.R.) part 200 (Office of Management and Budget Guidance) [OMB Guidance].
- d. Title 2, C.F.R. Part 2900 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) [Uniform Requirements].
- e. The provisions of the Jobs for Veterans Act (Pub. L. No. 107-288), including the requirement to provide priority service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services in any job training program directly funded, in whole or in part, by the DOL.
- f. Contractor will ensure diligence in managing programs under this subgrant agreement, including performing appropriate monitoring activities and taking prompt corrective action against known violations of WIOA.

2. CERTIFICATIONS / ASSURANCES

Except as otherwise indicated, the following certifications apply to all Contractors.

- a. **Corporate Registration:** Contractor, if it is a corporation, certifies it is registered with the Secretary of State of the State of California.
- b. **Contracting with Corporations with Felony Criminal Convictions Prohibited:** The Monterey County Workforce Development Board (MCWDB) and its subrecipients may not knowingly enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that was convicted of a felony criminal violation under any Federal law within the preceding 24 months.
- c. **Contracting with Corporations with Unpaid Tax Liabilities Prohibited:** The MCWDB and its subrecipients may not knowingly enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax

liability.

- d. **Expatriate Corporations:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code §§ 10286 and 10286.1, and is eligible to contract with the State of California.
- e. **Americans Disabilities Act (ADA):** Contractor agrees to comply with the Americans with Disabilities Act (ADA) of 1990, which, prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C.12101 et seq.)
- f. **False Claims Act:** Contractor, by signing this Agreement, agrees to assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets. Contractor shall assure that all annual, final fiscal reports, monthly claims, invoices, and vouchers, it submits for the purpose of requesting payment will include a certification, signed by an official who is authorized to legally bind Contractor, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise." (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).
- g. **Authority to Bind Contractor:** Contractor shall furnish the MCWDB in writing, a list of persons authorized to execute on behalf of Contractor: Agreements, modifications to Agreements, invoices or other documents as may be required by the MCWDB.
- h. **Sectarian Activities:** Contractor certifies that this Agreement does not provide for the advancement or aid to any religious sect, church or creed, or sectarian purpose nor does it help to support or sustain any school, college, university, hospital or other institution controlled by any religious creed, church, or sectarian denomination whatsoever, as specified by Article XVI, Section 5, of the Constitution, regarding separation of church and state.
- i. **Domestic Partners:** For contracts over \$100,000 executed or amended after January 1, 2007, the Contractor certifies that it is in compliance with Public Contract Code § 10295.3.
- j. **National Labor Relations Board:** Contractor (if not a public entity), by signing this Agreement, does swear under penalty of perjury, that no more than one final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board (PCC10296).
- k. **Prior Findings:** Contractor, by signing this Agreement, does swear under penalty of perjury, that it has not failed to satisfy any major condition in a current or previous Agreement with the DOL or the State of California and has not failed to satisfy conditions relating to the resolution of a final finding and determination, including repayment of debts.
- l. **Excluded Parties List:** The MCWDB will not contract with any entity listed on the Excluded Parties List System in the federal System for Award Management. Contractor hereby represents and warrants that it is not so listed.
- m. **Drug-Free Workplace Certification:** By signing this Agreement, Contractor hereby certifies

under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- (1) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - (2) Establish a Drug-Free Awareness Program to inform employees about:
 - a. The dangers of drug abuse in the workplace;
 - b. The person's or organization's policy of maintaining a drug-free workplace;
 - c. Any available counseling, rehabilitation and employee assistance programs; and
 - d. Penalties that may be imposed upon employees for drug abuse violations.
 - (3) Every Contractor employee who works on this Agreement will:
 - a. Receive a copy of the Contractor's drug-free policy statement; and
 - b. Agree to abide by the terms of the Contractor's drug-free policy statement as a condition of employment on the Agreement.
 - (4) The Contractor must notify the MCWDB if an employee of the Contractor is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for suspension or debarment.
 - (5) Failure to comply with these requirements may result in suspension of payments under this Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future agreements if it is determined that any of the following has occurred: the Contractor has made false certification; or violated the certification by failing to carry out the requirements as noted above. (Gov. Code § 8350 et seq.)
- n. **Child Support Compliance Act:** In accordance with the Child Support Compliance Act, Contractor recognizes and acknowledges: The importance of child and family support obligations and shall fully comply with the applicable State and Federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and that to the best of its knowledge Contractor is fully complying with the earnings assignment orders of all Contractor's employees and is providing the names of all new Contractor's employees to the New Employee Registry maintained by the State of California Employment Development Department (EDD).
- o. **Debarment and Suspension Certification:** By signing this Agreement, Contractor hereby certifies under penalty of perjury under the laws of the State of California that Contractor will comply with regulations implementing Executive Orders 12549 and 12689, Debarment and Suspension and OMB Guidance 2 CFR Part 180, that the Contractor, to the best of its knowledge and belief, that it and its principals:
- (1) Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
 - (2) Have not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract. Nor shall Contractor have, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against it for violation of

Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property.

- (3) Are not presently indicted for, or otherwise criminally or civilly charged by a government entity (Federal, State or local), with commission of any of the offenses enumerated in Section 2 of this Debarment and Suspension Certification.
 - (4) Have not, within a three-year period preceding this Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default. Where Contractor is unable to certify to any of the statements in this Debarment and Suspension Certification, it shall attach an explanation to this Agreement.
- p. **Mandatory Disclosures:** All WIOA and Wagner-Peyser recipients of Federal awards must disclose, as required at 2 CFR 200.113, in a timely manner, in writing to the Federal awarding agency or the MCWDB, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338 (Remedies for noncompliance), including suspension or debarment.
- q. **Lobbying Certification:** By signing this AGREEMENT, Contractor hereby assures and certifies to compliance with the lobbying restrictions which are codified in Title 31 of the United States Code, section 1352, as implemented by DOL regulations at 2 CFR Part section 200.208, as follows:
- (1) No Federal appropriated funds have been paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of any 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, and the extension, continuation, renewal, amendment, or modification of any 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 agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress, in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
 - (3) Contractor shall require that the language of the lobbying restrictions be included in the award documents for Agreement transactions over \$100,000 (per OMB) at all tiers (including AGREEMENTs, contracts, and subcontracts, under grants, loan, or cooperative Agreements), and that all subrecipients shall certify and disclose accordingly.
 - (4) This certification is a material representation of fact upon which reliance is placed when this transaction is executed. Submission of the Lobbying Certification is a prerequisite for making or entering into this transaction imposed by United States Code, section 1352, Title 31. 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 failure.
- r. **Priority Hiring Considerations:** If this AGREEMENT includes services in excess of \$200,000, Contractor shall give priority consideration in filling vacancies in positions funded by the Agreement to qualified recipients of aid under Welfare and Institutions Section Code 11200 in accordance with Public Contract Code §10353.

- s. **Sweatfree Code of Conduct:** All Contractors that contract for the procurement or laundering of apparel, garments, or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, or supplies furnished to the State pursuant to the contract have been laundered or produced, in whole or in part, by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further declares under penalty of perjury that it will adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108. Contractor agrees to cooperate fully in providing reasonable access to Contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the MCWDB, State of California EDD, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements of the Sweatfree Code of Conduct.
- t. **Unenforceable Provision:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected hereby.
- u. **Non-discrimination Clause / Affirmative Action / Equal Employment Opportunity:**
- (1) The conduct of the parties to this Agreement will be in accordance with Title VI of the Civil Rights Act of 1964, and the Rules and Regulations promulgated hereunder and the provisions of WIOA Section 188 and 29 CFR Part 38.
- a. As a condition to the Agreement of financial assistance from the DOL under WIOA, Contractor assures that it has the ability to comply with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the Agreement:
 - i. Section 188 of the WIOA, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or against beneficiaries on the basis of either citizenship/status or participation in any WIOA financially assisted Title I program or activity;
 - ii. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, and national origin;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
 - iv. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
 - v. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.
 - b. Contractor also assures that, as a recipient of WIOA Title I financial assistance, it will

comply with 29 CFR Part 38 and all other regulations implementing the laws listed above. This assurance applies to Contractor's operation of the WIOA financially assisted program or activity, and to all Agreements that Contractor makes to carry out the WIOA financially assisted program or activity. Contractor understands that the United States has the right to seek judicial enforcement of this assurance.

- c. This Contractor shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.
 - d. These assurances are binding on Contractor for the term of this Agreement, as specified in 29 CFR section 38.26(b).
- (2) Contractor will take affirmative action to assure that no individual will be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration or in connection with any services or activities authorized under the WIOA in violation of any applicable nondiscrimination law, including laws prohibiting discrimination on the basis of age, race, sex, color, religion, national origin, disability, political affiliation or belief. All complaints alleging discrimination must be filed and processed according to the procedures in the applicable DOL nondiscrimination regulations.
 - (3) Contractor will assure that discriminatory job orders will not be accepted, except where the stated requirement is a bona fide occupational qualification (BFOQ). See, generally, 42 U.S.C. 2000(e)–2(e), 29 CFR parts 1604, 1606, 1625. (3)
 - (4) Contractor will assure that employment testing programs will comply with 41 CFR part 60–3 and 29 CFR part 32 and 29 CFR 1627.3(b)(iv).
 - (5) Contractor agrees to conform to non-discrimination and equal opportunity requirements and procedures, including the discrimination complaint procedures in compliance with the WIOA, the Uniform Guidance 2 CFR Part 200, DOL Exceptions 2 CFR Part 2900, Federal regulations and State statutes, regulations and policy. (Reference MCWDB Policy 2018-1 – Nondiscrimination and Equal Opportunity Procedures, accessible at: <http://www.montereycountywib.org/policies/policies/>).
 - (6) Contractor will be governed by WIOA procedures relating to complaints alleging violations of the WIOA, regulations, other Agreements under the WIOA including terms and conditions of employment. Participants will be notified in writing, upon enrollment into employment or training, of the WIOA complaint procedures including notification of their right to file a complaint and instructions on how to do so. Complaint procedures include: (1) the right to file a complaint, (2) the opportunity to resolve complaints informally, (3) written notice of hearings, and (4) a final decision within sixty (60) days of the date of filing.
 - (7) Contractor will comply with Executive Order 11246, “Equal Employment Opportunity” (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, DOL.”
 - (8) Contractor shall ensure equal employment opportunity based on objective personnel policies and practices for recruitment, selection, promotion, classification, compensation, performance evaluation, and employee management relations.

v. Indemnification:

- (1) The following provision applies only if Contractor is a governmental entity: Pursuant to Section 895.4 of the California Government Code, each party agrees to indemnify and hold the other party harmless from all liability for damage to persons or property arising out of or resulting from acts or omissions of the indemnifying party.
- (2) The following provision applies only if the Contractor is a non-governmental entity: The Contractor agrees to the extent permitted by law, to indemnify, defend and hold harmless the MCWDB, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materials persons, laborers and any other persons, firms or corporations, furnishing or supplying work, services, materials, or supplies in connection with the performance of this agreement, and from any and all claims and losses accruing or resulting to any persons, firms or corporations which may be injured or damaged by the Contractor in the performance of this Agreement.
- w. **Salary and Bonus Limitations:** In compliance with Public Law 109-234, none of the funds appropriated in Public Law 109-149 or prior Acts under the heading "Employment and Training" that are available for expenditure on or after June 15, 2006, including funds expended pursuant to this Agreement, shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided for under section 101 of Public Law 109-149. This limitation shall not apply to Contractors providing goods and services as defined in Uniform Guidance 2 CFR Part 200 and the DOL Exceptions 2 CFR Part 2900. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the States, the compensation levels for programs involved including DOL Employment and Training Administration programs. See Training and Employment Guidance Letter #05-06 for further clarification at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2262.
- The incurrence of costs and receiving reimbursement for these costs under this Agreement certifies that Contractor has read the above special condition and is in compliance.
- x. **Federal Funding Accountability and Transparency Act (FFATA):** As required by FFATA, recipients of Federal awards are required to report sub-award and executive compensation information. By signing this Agreement, Contractor hereby assures and certifies to comply with the provisions of FFATA, which includes requirements referenced in Uniform Guidance 2 CFR Part 200, DOL Exceptions 2 CFR Part 2900, and requirements implementing FFATA at 2 C.F.R. part 25 and 2. C.F.R. part 170.
- y. **Clean Air Act:** Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387).
- z. **Air or Water Pollution Violation:** Under State laws, Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to any cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of Federal law relating to air or water pollution.

3. STANDARDS OF CONDUCT

Contractor hereby assures that in administering this Agreement, it shall comply with the standards

of conduct hereinafter set out, for maintaining the integrity of the Agreement and avoiding any conflict of interest in its administration.

- a. **General Assurance:** Every reasonable course of action will be taken by Contractor in order to maintain the integrity of the expenditure of public funds and to avoid favoritism and questionable or improper conduct. This Agreement will be administered in an impartial manner, free from efforts to gain personal, financial, or political gain. Contractor agrees to conform to the non-discrimination requirements as referenced in WIOA Section 188.
- b. **Conflict of Interest:** An executive or employee of Contractor, an elected official in the area or a member of the MCWDB will not solicit or accept money or any other consideration from a third person, for the performance of an act reimbursed, in whole or in part, by Contractor or the MCWDB: supplies, materials, equipment or services purchased with Agreement funds will be used solely for purposes allowed under this Agreement. No member of Contractor or the MCWDB will cast a vote on the provision of services by that member (or any organization, which that member represents) or vote on any matter which would provide direct financial benefit to that member (or immediate family of the member) or any business or organization which the member directly represents. For the purpose of this Agreement, a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial interest in or a tangible personal benefit from a firm considered for a contract, subcontract, or Agreement. (Reference 2 CFR Part 200.318(c)(1)(2) – Conflict of Interest) If a non-Federal entity, has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest mean that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears unable to be impartial in conducting a procurement action involving a related organization. (Reference 2 CFR Part 200.318(c)(2))
- c. **Buy-American:** Contractor agrees that, as stated in sec. 502 of WIOA, all funds authorized in WIOA and the Wagner-Peyser Act must be expended on only American made equipment and products, as required by the Buy American Act (41 U.S.C. 8301–8305). For the purposes of this award, the Contractor is required to maximize the use of goods, products, and materials produced in, and services offered in, the United States, in accordance with the Made in America Laws. No funds may be made available to any person or entity (including as a contractor or subrecipient of the award recipient) that has been found to be in violation of any Made in America Laws.
- d. **Nepotism:** Contractor certifies that it shall not hire nor permit the hiring of any person in a position funded under this Agreement if a member of the person's immediate family is employed in an administrative capacity. For the purpose of this Agreement, the term "immediate family" means spouse (common law or otherwise), child, mother, father, brother, sister, brother/sister-in-law, son/daughter-in-law, mother/father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, or such other relationship which would give rise to a substantial appearance of impropriety if the person were to be hired by Contractor. The term "administrative capacity" means persons who have overall administrative responsibility for a program, including but not limited to, selection, hiring, or supervisory responsibilities.
- e. **Procurement:** Contractor must comply with the MCWDB procurement policy and procedures which reflect applicable local, State and Federal laws and regulations, and the standards identified in Uniform Guidance 2 CFR Part 200.318 – General Procurement Standards. (Reference MCWDB Policy 2019-02 – Procurement Standards and policy attachments; <https://www.montereycountywdb.org/policy-procedures/>).

- f. **Flood Insurance:** The Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4001 *et seq.*, provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in communities in the United States identified as flood-prone, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within 1 year of the identification. The flood insurance purchase requirement applies to both public and private applicants for the DOL support.
- g. **Architectural Barriers:** The Architectural Barriers Act of 1968, 42 U.S.C. 4151 *et seq.*, as amended, the Federal Property Management Regulations (see 41 CFR 102-76), and the Uniform Federal Accessibility Standards issued by the U.S. General Services Administration (GSA) (see 36 CFR 1191, Appendixes C and D) set forth requirements to make facilities accessible to, and usable by, the physically handicapped and include minimum design standards. All new facilities designed or constructed with grant support must comply with these requirements.
- h. **Promoting Equitable Delivery of Government Benefits and Equal Opportunity:** The Department of Labor (Labor) seeks to affirmatively advance equity, civil rights and equal opportunity in the policies, programs, and services it provides. Therefore, consistent with Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, Contractors must execute the terms and conditions of their funding award in a manner that advances equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. This extends to all award activities including, but not limited to, service delivery, selection of subrecipients and contractors, and procurement of goods and services. Government programs are designed to serve all eligible individuals. As an expectation, Contractors should make the goods and services they provide widely available with the goal of effectively serving a diverse population of eligible individuals; fairly, justly, and impartially in administering the funding award. Contractors are encouraged to engage in contracting and subcontracting for goods and services related to performing the terms and conditions of their agreements in such a way to achieve equity.
- i. **Publicity:** Pursuant to P.L. 117-103, Division H, Title V, Section 503, the Contractor is not authorized to use any funds provided under this award—other than for normal and recognized executive–legislative relationships—for publicity or propaganda purposes, for the preparation, distribution or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation, designed to support or defeat legislation pending before the Congress or any state or local legislature or legislative body, except in presentation to the Congress or any state or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any state or local government, except in presentation to the executive branch of any state or local government itself.
- j. **Telecommunications Prohibition:** Contractors must adhere to 2 CFR 200.216 - Prohibition on certain telecommunications and video surveillance services or equipment (effective August 13, 2020). Contractors are prohibited from obligating or expending loan or grant funds to: procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, any use of video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) is prohibited, including telecommunications or video surveillance services provided by such entities or using such equipment and telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

- k. **Waste, Fraud, and Abuse:** No entity receiving federal funds may require employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.
- l. **Whistleblower Protection:** All employees working for contractors, grantees/ grant recipients, subcontractors, subgrantees/ subrecipients, and recipients of cooperative agreements working on this Federal award are subject to the whistleblower rights and remedies established at 41 U.S.C. 4712. The award recipient shall inform its employees and applicable contractors and subrecipients, in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation. The Contractor shall insert the substance of this clause in all subawards and contracts over the Simplified Acquisition Threshold.
- m. **Historically Black Colleges and Universities, Other Minority Institutions:** Pursuant to Executive Order (EO) 12928, the Contractor is strongly encouraged to provide subcontracting opportunities to Historically Black Colleges and Universities and other Minority Institutions such as Hispanic-Serving Institutions and Tribal Colleges and Universities; and to Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals.
- n. **Improving Access to Services for Persons with Limited English Proficiency:** As clarified by EO 13166, Improving Access to Services for Persons with Limited English Proficiency, dated August 11, 2000, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI, Contractor must take reasonable steps to ensure that LEP persons have meaningful access to programs in accordance with DOL's Policy Guidance on the Prohibition of National Origin Discrimination as it Affects Persons with Limited English Proficiency, 68 FR 32289 (May 29, 2003). Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.
- o. **Harassment Prohibited:** The Contractor is prohibited from engaging in harassment of an individual based on race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, based on citizenship status or participation in any WIOA Title I-financially assisted program or activity. Harassing conduct of this type is a violation of the nondiscrimination provisions of WIOA and of 29 CFR Part 38.
- p. **Health Benefits Coverage for Contraceptives:** Federal funds may not be used to enter in to or renew a contract which includes a provision for prescription drug coverage unless the contract also includes a provision for contraceptive coverage. This requirement does not apply to contracts with 1) the religious plans Personal Care's HMO and OSF Health Plans, Inc. and 2) any existing or future plan if the carrier for the plan objects to such coverage on the basis of religious

beliefs.

- q. **Health Benefits Coverage for Abortions Restricted:** Pursuant to P.L. 117-103, Division H, Title V, Section 506 and 507, Federal funds may not be expended for health benefits coverage that includes coverage of abortions, except when the pregnancy is the result of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself that would, as certified by a physician, place the women in danger of death unless an abortion is performed. This restriction does not prohibit a contractor from providing health benefits coverage for abortions when all funds for that specific benefit do not come from a Federal source. Additionally, no funds made available through this grant award may be provided to a State or local government if such government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.
- r. **Fair Labor Standards Act Amendment for Major Disasters:** Pursuant to P.L. 117-103, Division H, Title I, Section 108, the Fair Labor Standards Act of 1938 (FLSA) will apply as if the following language was added to Section 7 (the Maximum Hours Worked Section). This language specifically relates to occurrences of a major disaster (as declared or designated by the state or federal government) and are applied for a period of two years afterwards. The language is as follows:
- “(s)(1) The provisions of this section [maximum hours worked] shall not apply for a period of 2 years after the occurrence of a major disaster to any employee—
- (A) employed to adjust or evaluate claims resulting from or relating to such major disaster, by an employer not engaged, directly or through an affiliate, in underwriting, selling, or marketing property, casualty, or liability insurance policies or contracts;
- (B) who receives from such employer on average weekly compensation of not less than \$591.00 per week or any minimum weekly amount established by the Secretary, whichever is greater, for the number of weeks such employee is engaged in any of the activities described in subparagraph (C); and (C) whose duties include any of the following:
- (i) interviewing insured individuals, individuals who suffered injuries or other damages or losses arising from or relating to a disaster, witnesses, or physicians;
- (ii) inspecting property damage or reviewing factual information to prepare damage estimates;
- (iii) evaluating and making recommendations regarding coverage or compensability of claims or determining liability or value aspects of claims;
- (iv) negotiating settlements; or
- (v) making recommendations regarding litigation.
- (2) The exemption in this subsection shall not affect the exemption provided by section 13(a)(1) [of the FLSA].
- s. **Lobbying/Advocacy Restricted:** Pursuant to P.L. 117-103, Division H, Title V, Section 503, no federal funds may be used to pay the salary or expenses of any grant recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or executive order proposed or pending before the Congress or any state government, state legislature or local legislature or legislative body, other than for normal and recognized executive–legislative relationships or participation by an agency or officer of a state, local or tribal government in policymaking and administrative processes within the executive branch of that government.

- t. **Blocking Pornography Required:** Pursuant to P.L. 117-103, Division H, Title V, Section 503, no federal funds may be used to pay the salary or expenses of any grant recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or executive order proposed or pending before the Congress or any state government, state legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a state, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- u. **Privacy Act:** No funds can be used in contravention of 5 U.S.C. 552a (the Privacy Act) or regulations implementing the Privacy Act.
- v. **Procuring Goods Obtained through Child Labor Prohibited:** Pursuant to P.L. 117-103, Division H, Title I, Section 103, no Federal funds may be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, in whole or in part, by forced or indentured child labor in industries and host countries identified by the DOL prior to December 20, 2019. DOL has identified these goods and services at ILAB's List of Products Produced by Forced or Indentured Child Labor webpage.
- w. **Promotion of Drug Legalization Restricted:** Pursuant to P.L. 117-103, Division H, Title V, Section 509, no Federal funds shall be used for any activity that promotes the legalization of any drug or other substance included in Schedule I of the schedules of controlled substances established under Section 202 of the Controlled Substances Act except for normal and recognized executive-congressional communications or where there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
- x. **Purchase of Sterile Needles or Syringes Restricted:** Pursuant to P.L. 117-103, Division H, Title V, Section 526, no Federal funds shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug.
- y. **Trafficking in Persons Prohibited:**
 - (1) This part establishes a government-wide award term for grants and cooperative agreements to implement the requirement in regard to Trafficking in persons.
 - a. *Provisions applicable to a recipient that is a private entity.*
 - I. The award recipient, the award recipient's employees, subrecipients under this award, and subrecipients' employees may not—
 - (A). Engage in severe forms of trafficking in persons during the period of time that the grant award is in effect; or
 - (B). Procure a commercial sex act during the period of time that the award is in effect; or
 - (C). Use forced labor in the performance of the award or subawards under the award.
 - II. DOL/ETA as the Federal awarding agency may unilaterally terminate this award, without penalty, if the award recipient or a subrecipient that is a private entity —
 - (A). Is determined to have violated a prohibition in paragraph a.I of this award term; or
 - (B). Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.I of this award term through conduct that is either—

- i. Associated with performance under this award; or
 - ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 2998.
- b. *Provision applicable to a recipient other than a private entity.* DOL/ETA as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
 - I. Is determined to have violated an applicable prohibition in paragraph a.I of this grant award term; or
 - II. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a. I of this grant award term through conduct that is either—
 - (A). Associated with performance under this award; or
 - (B). Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 29 CFR Part 98.
- c. *Provisions applicable to any recipient.*
 - I. The award recipient must inform DOL/ETA immediately of any information the award recipient receives from any source alleging a violation of a prohibition in paragraph a.1 of this grant award term.
 - II. DOL/ETA right to terminate unilaterally that is described in paragraph a. II or b of this section:
 - (A). Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - (B). Is in addition to all other remedies for noncompliance that are available to DOL/ETA under this grant award.
 - III. The award recipient must include the requirements of paragraph a. I of this award term in any subaward the award recipient makes to a private entity.

4. COORDINATION

- a. Contractor will, to the maximum extent feasible, coordinate all programs and activities supported under this part with other core programs under the WIOA, including the WIOA (Adult, Dislocated Worker and Youth formula programs); Wagner-Peyser Act employment services; Adult Education and Literacy Act programs; Rehabilitation Act Title I programs; Job Corps program, YouthBuild program, Native American programs, Migrant and Seasonal Farmworker programs, and other employment and training programs at the local level. In addition to the core programs, for individuals with multiple needs to access services, Contractor will, to the maximum extent feasible, coordinate with the following partner programs required to provide access through the America's Job Center of California or One-Stop Career Center: Career and Technical Education (Perkins), Community Development Block Grants, Indian and Native American programs, HUD Employment and Training programs, Local Veterans' Employment Representatives and Disabled Veterans' Outreach program, National Farmworker Jobs program, Senior Community Service Employment program, Temporary Assistance for Needy Families (TANF), Trade Adjustment Assistance programs, and Unemployment Compensation programs.

- b. Contractor shall not accept referrals for participant positions funded under this Agreement from any agency which charges a fee to either the individual being referred or the employing agency for the services rendered. Charges incurred in violation of this clause shall be the sole responsibility of Contractor and shall not be charged to either this AGREEMENT or the participant under this Agreement.

5. SUBCONTRACTING

- a. Contractor will not assign a contract resulting from this Agreement or any portion thereof to a third party without the prior written consent of the MCWDB, and any attempted assignment or subcontract without such prior written consent may cause immediate termination of the Agreement.
- b. Upon approval from the MCWDB, any of the work or services specified in this AGREEMENT which will be performed by other than Contractor will be evidenced by a written Agreement specifying the terms and conditions of such performance.
- c. Contractor will maintain and adhere to an appropriate system, consistent with Federal, State and local law, for the award and monitoring of contracts which contain acceptable standards for insuring accountability.
- d. The system for awarding contracts will contain safeguards to insure Contractor does not contract with any entity whose officers have been convicted of fraud or misappropriation of funds within the last two years.

6. CONSULTANTS

Fees paid to a consultant, who provides services under a program, shall be limited to \$750 per day (representing an 8 hour work day). Any fees paid in excess of this amount cannot be paid without prior approval from the Grant Officer.

7. RESOLUTION

A county, city, district or other local public body must provide the MCWDB and the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an AGREEMENT, authorizing execution of this Agreement. Preferably resolutions should authorize a designated position rather than a named individual.

8. FUNDING

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional and legislative appropriation of funds. The parties hereby enter into this Agreement in advance of confirmation of the availability of funds for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the AGREEMENT was executed after that determination was made.
- b. This AGREEMENT is valid and enforceable only if (1) sufficient funds are made available by the State Budget Act of the appropriate State fiscal years covered by this Agreement for the purposes of this program and; (2) sufficient funds are made available to the State by the United States Government for the fiscal years covered by this AGREEMENT for the purposes of the programs described in the scope of services. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress and Legislature or any statute enacted by the Congress and Legislature which may affect the provisions, terms, or funding of

this AGREEMENT in any manner.

- c. At the expiration of the terms of this Agreement or upon termination prior to the expiration of this Agreement, funds not obligated for the purpose of this Agreement will be immediately remitted to the MCWDB, and shall no longer be available to Contractor.
- d. The MCWDB retains the right to suspend financial assistance, in whole or in part, to protect the integrity of the funds or to ensure proper operation of the program, providing Contractor is given prompt notice and the opportunity for an informal review of the MCWDB's decision. The Executive Director of the MCWDB or his/her designee will perform this informal review and will issue the final administrative decision within 60 days of receiving the written request for review. Failure on the part of Contractor to comply with the provisions of this Agreement, or with the WIOA or regulations, when such failure involves fraud or misappropriation of funds, may result in immediate withholding of funds.

9. FISCAL ACCOUNTABILITY

- a. Contractor shall establish and maintain a sound financial management system, based upon generally accepted accounting principles. An integral part of the required financial management system is a system of internal accounting controls that will provide reasonable assurance that WIOA assets are safeguarded against loss from unauthorized use or disposition, and that accounting transactions affecting WIOA fund accountability are properly charged and recorded by administrative and program cost categories to permit the preparation of accurate and supportable financial reports.
- b. Contractor will comply with controls, record keeping and fund accounting procedure requirements of WIOA, Federal and State regulations, and directives to ensure the proper accounting for program funds paid to Contractor by the MCWDB through a cost reimbursement process.
- c. This Agreement provides for the reimbursement of allowable costs that are identified and approved in the AGREEMENT budget, and incurred in the operation of the programs specified in the scope of services. Back-up documentation is required from Contractor to justify reimbursement payments made under this AGREEMENT.
- d. All expenditures must be reported on an accrual basis of accounting.
- e. No cost shall be allowed under this AGREEMENT which is not specifically identified in Contractor's approved budget. Contractor shall not transfer funds between cost categories or adjust designated "total budget" line items without prior written approval by the MCWDB (applicable to cost reimbursement contracts only). Invoices for reimbursement submitted by Contractor that include designated total line item expenditures above the total budget for that designated line item will not be paid until the cost overrun is reconciled. All limitations on expenditures specified in Federal and State fiscal requirements shall apply to this AGREEMENT.
- f. Contractor shall not charge nor receive compensation under this AGREEMENT for any services or expenses unless said services or expenses are directly and exclusively related to the purpose of this AGREEMENT. In addition, payment may not be received by Contractor from any other source for said services or expenses. Moreover, funds shall not be allowed for cost incurred before or after the effective dates of this AGREEMENT. Contractor shall not use WIOA funds as security or payment for obligations or as loans for activities of other funded programs.
- g. Contractor's personnel whose time is charged to the budget under this AGREEMENT shall be paid on a pro-rata basis commensurate with the percentage of time devoted to the programs

specified in the scope of services. Personnel costs including salary shall be reasonable. Employees of Contractor shall be compensated using WIOA funds under this AGREEMENT only for work performed under the terms of this AGREEMENT.

- h. The MCWDB shall not pay, and Contractor shall not request, payment for any accrued employee fringe benefits (including vacation and sick time), which were not accrued by Contractor's employees during the term of this AGREEMENT.
- i. In accordance with the requirements at 2 CFR 200.400(g), Contractor may not earn or keep any profit resulting from WIOA funds paid under this AGREEMENT, or other federal financial assistance.
- j. Any excess of revenue over costs incurred for services provided by Contractor must be included in program income. (WIOA secs. 194(7)(A)–(B)). Interest income earned on funds received under WIOA and Wagner-Peyser Act must be included in program income. (WIOA sec.194(7)(B)(iii)) Accordingly, these funds may be retained by Contractor to underwrite additional training or training related services pursuant to the project or program that generated them, consistent with the purposes of WIOA. When Contractor ultimately discontinues the provision of all WIOA training and/or services described in this AGREEMENT, program income remaining shall be returned to the MCWDB.
- k. Contractor shall make available to the MCWDB, upon request, a complete and detailed record or cost allocation of any expenses that are, in whole or in part, supported with program funds. This detailed account shall include percentages and total contributions from both WIOA and non-WIOA sources. Shared expenses may include, but are not necessarily limited to the following: staff salaries, facilities, equipment, etc.
- l. Travel expenses when permitted should be made at the agency rate per mile, but the rate cannot exceed the Agreement allowed by the Monterey County travel expense reimbursement policy, located online at: <http://www.co.monterey.ca.us/auditor/policies.htm>.

10. PAYMENT OF AUTHORIZED EXPENDITURES

- a. Subject to receipt of funds from the State, the MCWDB agrees to reimburse Contractor for expenditures authorized in the AGREEMENT budget. Financial reports and invoices are due to the fiscal unit of the MCWDB by the 15th working day of each month and shall include all obligations, expenditures and accruals incurred during the previous month, unless otherwise specified by the MCWDB. Late submission of financial reports and invoices are subject to withholding of payment due to non-compliance with Contractor's AGREEMENT to submit timely and accurate reports and invoices. The MCWDB's Fiscal Unit shall pay the certified invoice within 45 days of receiving the certified invoice. Financial information reported on claims must be directly linked to records maintained by Contractor which support actual delivery of services as outlined in the existing AGREEMENT between Contractor and the MCWDB. The MCWDB shall be the sole judge of what constitutes adequate supporting documentation.
- b. Contractor shall be paid in accordance with the AGREEMENT and budget, not to exceed the maximum Agreement specified. Any cost incurred by Contractor over and above the maximum Agreement obligated by the AGREEMENT and budget shall be at the sole risk and expense of Contractor.

11. REQUIRED FUNDING INFORMATION IN PUBLIC COMMUNICATIONS

Pursuant to Public Law 116-260, Division H, Title V, Section 505, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all non-Federal entities receiving Federal funds shall clearly state:

- a. The percentage of the total costs of the program or project which will be financed with Federal money;
- b. The dollar amount of Federal funds for the project or program; and
- c. The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

12. PERFORMANCE ACCOUNTABILITY

- a. Contractor, commencing as of the date of execution of this AGREEMENT by both parties, shall perform all the functions set forth in the AGREEMENT scope of services. Adequate performance under this AGREEMENT is essential and Contractor shall measure its performance results against goals and performance standards provided by this AGREEMENT. Measured performance below goals standards will constitute noncompliance with the terms of this AGREEMENT.
- b. It is the responsibility of Contractor to bring to the attention of the MCWDB areas of performance which are below goals and standards and, with respect to each such area, prepare a corrective action plan or a statement justifying modification of operational plans. In addition, upon receipt of any monitoring report or other communication identifying areas of concern, a corrective action plan must be submitted to the MCWDB within the time frame identified in the report. A corrective action plan shall consist of the following:
 - (1) Specific Actions to be taken
 - (2) The objective of each action
 - (3) Completion dates
 - (4) Person(s) responsible
 - (5) Result(s) to be accomplished
- c. Contractor shall submit all corrective plans to the MCWDB for written approval. If approved, Contractor shall keep the MCWDB aware of progress, on a continuing basis, until the corrective action plan results are accomplished. The MCWDB reserves the right to require modifications to the corrective action plan, satisfactory to the MCWDB, in the event of failure by Contractor to achieve the specified results.
- d. Failure of Contractor to satisfy administrative standards and/or performance goals may result in the immediate reduction of service levels to new applicants and/or enrollees by MCWDB. Such reduction will be accompanied by a proportionate decrease in obligated AGREEMENT funds.

13. MAINTENANCE OF EFFORT

Contractor shall comply with the following maintenance of effort requirements:

- a. Contractor warrants that participant positions funded through this AGREEMENT are in addition to those that would otherwise be financed by Contractor without assistance under WIOA.
- b. Participant positions funded through this AGREEMENT shall: (1) result in an increase in employment opportunities over those that would otherwise be available; (2) not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of non-over time work, wages or employment benefits; (3) not impair existing contracts for

service or result in a substitution of Federal funds for other funds in connection with work that would otherwise be performed; (4) not substitute public service and/or work experience positions for existing jobs.

- c. Contractor will not terminate, layoff or reduce the working hours of an employee for the purpose of hiring an individual with funds available under WIOA.
- d. Contractor will not hire any person using funds available under WIOA when any other person is on layoff for the same or substantially equivalent job.

14. AMENDMENTS

This AGREEMENT may be unilaterally modified by the MCWDB, under the following circumstances:

- a. There is a decrease in Federal or State funding levels.
- b. Funds awarded to Contractor have not been expended in accordance with the budget included in the approved Contractor's plan. This will occur if, after consultation with Contractor, the MCWDB has determined, in a manner consistent with State and Federal law, regulations and policies, that funds will not be spent in a timely manner.
- c. There is a change in State and Federal law or regulation requiring a change in the provisions of this AGREEMENT.

Except as provided above, the AGREEMENT may be amended only in writing by the mutual AGREEMENT of both parties.

15. REPORTING

- a. Contractor will compile and submit reports of activities, performance and expenditures by the specified dates prescribed by the MCWDB. All expenditure reports must be submitted upon the accrual basis of accounting. Failure to adhere to the reporting requirements of this AGREEMENT will result in funds not being paid to Contractor by the MCWDB.
- b. Contractor shall submit to the MCWDB all required reports on a timely basis as delineated by the MCWDB. Contractor shall submit written monthly status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken or other reports determined to be necessary by the MCWDB. These reports are due to the MCWDB, as requested in writing. Contractor also shall submit on a timely basis all required AGREEMENT supplemental documents.

16. TERMINATION

In the event of early termination of this AGREEMENT, the MCWDB's liability to Contractor is limited to the value of services and/or goods provided to the date of termination. This AGREEMENT may be terminated, in whole or in part, for either of the two following circumstances:

- a. **Termination for Convenience:** The MCWDB may, in its sole discretion, terminate this Agreement for convenience, including but not limited to, insufficient funding, lack of program participants, change in focus of WIOA program priorities, and similar. The MCWDB shall provide Contractor with ninety (90) days advance notice of termination of this Agreement for convenience.

- b. **Termination for Cause:** The MCWDB may terminate this Agreement, in whole or in part, if it determines that Contractor has substantially breached this agreement or violated WIOA, WIOA regulations, the Uniform Guidance, implementing state legislation, and/or guidance and directives issued by the State Employment Development Department or the federal Department of Labor. In the event of Contractor's breach of this Agreement or in the event of Contractor's violation of WIOA and related laws, regulations, guidance and directives, the MCWDB may pursue all legal remedies available to it under federal and state law, including injunctive relief and restitution of WIOA funds previously disbursed to Contractor.
- (1) In the event of breach of this Agreement by Contractor or in the event of Contractor's violation of WIOA and related laws, regulations, guidance and directives, the MCWDB may also seek to impose administrative sanctions such as, but not limited to, a bar on Contractor's future receipt of WIOA funds and/or a bar on Contractor's future provision of WIOA program services.
- (2) The MCWDB may, in its sole discretion, afford Contractor the opportunity to take corrective action prior to terminating this Agreement and/or pursuing legal remedies/administrative sanctions.

All notices of termination must be in writing and be delivered personally or by deposit in the U.S. Mail postage prepaid, "Certified Mail-Return Receipt Requested," and will be deemed to have been given at the time of personal delivery or of the date of postmark by the U.S. Postal Service.

Notices to the MCWDB will be addressed to:

Executive Director
Workforce Development Board (MCWDB)
344 Salinas Street, Suite 101
Salinas, CA 93901

Notices to Contractor will be addressed to:

Regional Director
Arbor E&T dba Equus Workforce Solutions
344 Salinas Street
Salinas, CA 93901

With a notice copy to:
Office of General Counsel
805 N. Whittington Pkwy.
Louisville, KY 40222

17. RECORDS MAINTENANCE & RETENTION

- a. If participants are served under this AGREEMENT, Contractor will use CalJOBS <https://www.caljobs.ca.gov>, online case management systems as prescribed by the County of Monterey.
- b. Contractor will retain all records pertinent to this AGREEMENT for a period of three (3) years from the date of final payment of this AGREEMENT. If, at the end of three (3) years, there is litigation or an audit involving those records, Contractor will retain the records until the resolution

of such litigation or audit. (Refer to Uniform Guidance, Subpart D, Part 200.333-200.337.)

- c. The MCWDB, the State of California, and/or the U.S. DOL, or their designee (refer to Uniform Guidance, Subpart F, Part 200.500-200.521) will have access to and right to examine, monitor and audit all records, documents, conditions and activities related to programs funded by this AGREEMENT. For purposes of this section, "access to" means that Contractor shall at all times maintain within the State of California a complete set of records and documents related to programs funded by this AGREEMENT. Contractor shall comply with this requirement regardless of whether it ceases to operate or maintain a presence within the State of California before the expiration of the AGREEMENT. Contractor's performance under the terms and conditions herein specified will be subject to an evaluation by the MCWDB of the adequacy of the services performed, timeliness of response and a general impression of the competency of Contractor's organization and its staff.
- d. Portable Document Format (PDF), electronic, machine readable information or paper documentation is allowed for the purpose of records maintenance and retention, as long as there are appropriate and reasonable internal controls in place to safeguard against any inappropriate alteration of records. (Reference Uniform Guidance 2 CFR 200.335 – Methods for Collection, Transmission and Storage of Information) To the extent possible, Contractors should use the Virtual Job Center and/or CalJOBS systems as prescribed by the MCWDB, as both a reporting and a case management tool.

18. AUDITS

- a. If Contractor expends \$750,000 or more in a year in federal funds, CONTRACTOR shall submit an audit report that conforms to the requirements of 2 CFR part 200, subpart F (Single Audit.) Funds may be set aside in Contractor's budget in an amount equal to MCWDB'S fair share of the Contractor's cost of an A-133 independent audit, if required.
- b. The audit report shall ascertain and determine that no services provided by the Contractor under this AGREEMENT are duplicative of services provided to another agency from which Contractor receives funding and are not being reimbursed from funding received from another agency.
- c. Contractor shall enter into an agreement with an outside auditor no later than sixty (60) days before the end of each Fiscal Year calling for the financial and compliance audit of the Fiscal Years that are covered by this AGREEMENT. The written agreement may be in the form of an engagement letter prepared by the auditor and approved by Contractor.
- d. The audit report must be completed and sent to the MCWDB within six months of the end of each Fiscal Year covered by this AGREEMENT. Acceptable forms include: (i) an original, bound copy signed by the certified public accountant responsible for the work, OR (ii) a protected document file format (.pdf) emailed from the certified public accountant. If this AGREEMENT expires or is terminated on a date that occurs after the period covered by the foregoing audit, the Contractor shall deliver an audit report within two hundred and fifty (250) days after the expiration or termination of this AGREEMENT auditing the period not covered by the prior audit.
- e. Should Contractor not enter into an agreement with an outside auditor or should an audit not be performed on a timely basis, the MCWDB, at its discretion, may enter into an agreement with an independent auditor to perform the audit at Contractor's expense.
- f. The Contractor shall submit to the MCWDB copies of management letters the auditor prepares for the Contractor as part of the audit engagement.

- g. All audits must be performed by Certified Public Accountants currently certified and licensed to practice in the State of California. Contractor must have auditor's proof of current licensing on file in Contractor's office. Contractor must submit a copy of the auditor's certification to practice in California to the MCWDB.
- h. Contractor will maintain and make available to auditors, at all levels, accounting and program records including supporting source documentation and cooperate with all auditors. Contractor must follow the audit requirements (single audit or program-specific audit requirement) of Uniform Guidance 2 CFR, Part 200 and DOL Exceptions 2 CFR Part 2900.
- i. Auditors performing monitoring or audits of Contractor will immediately report to the MCWDB any incidents of fraud, abuse or other criminal activity in relation to this AGREEMENT, the WIOA or its regulations.

19. DISALLOWED COSTS

- a. Except to the extent that the State determines it will assume liability, Contractor will be liable for and will repay the MCWDB, any sums expended under this AGREEMENT found not to be in compliance with the WIOA including, but not limited to, disallowed costs. Such repayment will be from funds (Non-Federal), other than those received under the WIOA. Payment of any disallowed costs must be made within 30 days of notification of the disallowed costs, unless otherwise specified by the MCWDB.
- b. Contractor shall be notified of all final determinations made by the MCWDB regarding audit reports, independent monitoring reports, and MCWDB administrative findings by a final determination letter.
- c. If Contractor fails to refund any disallowed cost within 30 days, the MCWDB may, at its sole discretion, terminate any and all AGREEMENTs with Contractor effective immediately thereon.

20. CONFLICTS

- a. Contractor will cooperate in the resolution of any conflict with the MCWDB that may occur from the activities funded under this AGREEMENT.
- b. In the event of a dispute between the MCWDB and Contractor over any part of this AGREEMENT, the dispute may be submitted to non-binding arbitration upon the consent of both the MCWDB and Contractor. An election for arbitration pursuant to this provision will not preclude either party from pursuing any remedy for relief otherwise available.

21. PROPERTY

- a. The Federal Government reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for federal purposes: the copyright in all products developed under the grant, including a subgrant or contract under the grant or subgrant; and any rights of copyright to which the grant award recipient, subrecipient or a contractor purchases ownership under an award (including but not limited to curricula, training models, technical assistance products, and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise.
 - (1) Federal funds may not be used to pay any royalty or license fee for use of a copyrighted work, or the cost of acquiring by purchase a copyright in a work, where the DOL/ETA has a

- license or rights of free use in such work, although they may be used to pay costs for obtaining a copy which is limited to the developer/seller costs of copying and shipping.
- (2) If revenues are generated by selling products developed with grant funds, including intellectual property, these revenues are considered as program income. Program income must be used in accordance with the provisions of this grant award and 2 CFR 200.307.
 - (3) The following language must be on all workforce products developed in whole or in part with grant funds:

“This workforce product was funded by a grant awarded by the U.S. Department of Labor (DOL)’s Employment and Training Administration. The product was created by the recipient and does not necessarily reflect the official position of DOL/ETA. DOL/ETA makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This product is copyrighted by the institution that created it.”

- (4) Additionally, pursuant to 2 CFR 2900.13, Intellectual Property developed under this subgrant will be licensed under a Creative Commons Attribution license, which allows subsequent users to copy, distribute, transmit and adapt the copyrighted work and requires such users to attribute the work in the manner specified by the Pass-through Entity.
 - (5) If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2](#) (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- b. All property, whether finished or unfinished documents, data, studies and reports prepared or purchased by Contractor under this AGREEMENT, will be disposed of in accordance with the direction of the MCWDB. In addition, any tools and/or equipment furnished to Contractor by the MCWDB and/or purchased by Contractor with funds pursuant to this AGREEMENT, will be limited to the use within the activities outlined in this AGREEMENT and will remain the property of the DOL and/or the MCWDB. Upon termination of this AGREEMENT, Contractor will immediately return such tools and/or equipment to the MCWDB or dispose of them as prescribed by the MCWDB.
 - c. All non-expendable property acquired with program funds provided, in whole or in part, under this AGREEMENT shall become property of the MCWDB at the time of acquisition and shall be returned to the MCWDB upon termination of the AGREEMENT and completion of the program or at such time as the MCWDB makes a request for such property. Non-expendable property is defined as property which will not be consumed or lose its identity during the AGREEMENT term, has a unit value in excess of \$1,000 at the time of purchase, and is expected to have a useful life of one year or more.
 - d. Contractor shall obtain advance written approval of MCWDB for purchase of any non-expendable equipment having a unit purchase price of \$1,000 or more, and use expectancy in excess of one year.
 - e. Property records for non-expendable property shall be accurately maintained by Contractor and

shall reflect the following:

- (1) a description of the property;
- (2) acquisition date and costs;
- (3) supplier; and
- (4) percentage of the cost of the property purchased with funds from this AGREEMENT.

- f. Contractor shall insure that adequate safeguards are provided to prevent loss, damage or theft of the property. In the case of all suspected thefts and if there is any possibility of a criminal cause of the loss or damage, Contractor shall report the loss, damage, or theft to the police, unless the possible crime occurred in another jurisdiction, in which case Contractor shall report it to the law enforcement authorities with that jurisdiction and Contractor shall provide a copy of the law enforcement report to the MCWDB.

22. CONFIDENTIALITY REQUIREMENTS

The MCWDB and Contractor will exchange various kinds of information pursuant to this AGREEMENT. That information will include data, applications, program files, and databases. These data and information are confidential when they define an individual or an employing unit. Confidential information requires special precautions to protect it from unauthorized use, access, disclosure, modification, and destruction. The sources of information may include, but are not limited to, the County of Monterey, State of California EDD, California Department of Social Services, California Department of Education, California Department of Corrections and Rehabilitation, County Welfare Department(s), County IV-D Directors Office of Child Support, Office of the District Attorney, California Department of Mental Health, California Office of Community Colleges and Department of Alcohol and Drug Programs.

The MCWDB and Contractor agree that:

- a. Each party must recognize and safeguard personally identifiable information (PII) and information designated as sensitive in accordance with Uniform Guidance 2 CFR 200.303 – Safeguarding Personally Identifiable Information, except where disclosure is allowed by prior written approval of the Grant Officer or by court order. Contractor must take reasonable measures to safeguard protected PII, as well as any information that the MCWDB designates as sensitive. Both Contractor and the MCWDB must meet the requirements in Training and Employment Guidance letter (TEGL) 39-11, Guidance on the Handling and Protection of Personally Identifiable Information, located at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7872.
 - b. Each party shall keep all information that is exchanged between them in the strictest confidence and make sure information available to their respective employees is only on a “need-to-know” basis.
 - c. Each party shall provide security sufficient to ensure protection of confidential information from improper use and disclosures, including sufficient administrative, physical, and technical safeguards to protect this information from reasonable unanticipated threats to the security or confidentiality of the information.
 - d. Contractor agrees that information obtained under this AGREEMENT will not be reproduced, published, sold or released in original or in any other form for any purpose other than those specifically identified in this AGREEMENT.
- (1) Aggregate Summaries: All reports and/or publications developed by Contractor based on data obtained under this AGREEMENT shall contain confidential data in aggregated or

statistical summary form only. "Aggregated" refers to a data output that does not allow identification of an individual or employer unit.

- (2) Publication: Prior to publication, Contractor shall carefully analyze aggregated data outputs to ensure the identity of individuals and/or employer units cannot be inferred pursuant to Unemployment Insurance Code Section 1094(c). Personal identifiers must be removed. Geographic identifiers should be specified only in large areas and as needed, and variables should be recorded in order to protect confidentiality.
 - (3) Minimum Data Cell Size: The minimum data cell size or derivation thereof shall be three participants for any data table released to outside parties or to the public.
- e. Each party agrees that no disaggregate data, identifying individuals or employers, shall be released to outside parties or the public.
 - f. Contractor shall notify the MCWDB of any actual or attempted information security incidents, within 24 hours of initial detection, by telephone at (831) 759-6644 or (831) 796-6434. Information security incidents include, but are not limited to, any event (intentional or unintentional), that causes the loss, damage, or destruction, or unauthorized access, use, modification, or disclosure of information assets. Contractor shall cooperate with the MCWDB in any investigation of security incidents. The system or device affected by an information security incident and containing confidential data obtained in the administration of this program shall be immediately removed from operation upon confidential data exposure or a known security breach. It shall remain removed from operation until correction and mitigation measures are applied. If Contractor learns of a breach in the security of the system which contains confidential data obtained under this AGREEMENT, then Contractor must provide notification to individuals pursuant to Civil Code Section 1798.82.
 - g. Contractor shall provide for the management and control of physical access to information assets (including personal computer systems, computer terminals, mobile computing devices, and various electronic storage media) used in performance of this AGREEMENT. This shall include, but is not limited to, security measures to physically protect data, systems, and workstations from unauthorized access and malicious activity; the prevention, detection, and suppression of fires; and the prevention, detection, and minimization of water damage.
 - h. At no time will confidential data obtained pursuant to this AGREEMENT be placed on a mobile computing device or on any form of removable electronic storage media of any kind unless the data are fully encrypted.
 - i. Each party shall provide its employees with access to confidential information with written instructions fully disclosing and explaining the penalties for unauthorized use or disclosure of confidential information found in Section 1798.55 of the Civil Code, Section 502 of the Penal Code, Section 2111 of the Unemployment Insurance Code, Section 10850 of the Welfare and Institutions Code and other applicable local, State and Federal laws.
 - j. Each party shall (where it is appropriate) store and process information in electronic format, in such a way that unauthorized persons cannot reasonably retrieve the information by means of a computer.
 - k. Each party shall promptly return to the other party confidential information when its use ends, or destroy the confidential information utilizing an approved method of destroying confidential information: shredding, burning, or certified or witnessed destruction. Magnetic media are to be degaussed or returned to the other party.

- I. If the MCWDB or Contractor enters into an AGREEMENT with a third-party to provide WIOA services, the MCWDB and Contractor agree to include these data and security and confidentiality requirements in the AGREEMENT with that third-party. In no event, shall said information be disclosed to any individual outside of that third-party's authorized staff, subcontractor(s), service Contractors, or employees.
- m. Contractor may, in its program operations, allow an individual to register for resume-distribution services at the same time the individual enrolls in the Virtual Job Center or CalJOBS. Contractor shall ensure that it and all subcontractors comply with the confidentiality requirements of this AGREEMENT and any other terms of this AGREEMENT that may be applicable. In addition, the following requirements must be adhered to by Contractor and its subcontractors:
 - (1) All client information submitted over the Internet to Contractor and/or subcontractor(s) databases must be protected, at a minimum, by 128-bit Secure Socket Layer (SSL) encryption. Client's social security numbers must be stored in a separate database within Contractor and/or subcontractor(s) network of servers, and protected by a firewall and a secondary database server firewall or AES1 data encryption. If a Contractor and/or subcontractor(s) obtain confidential information, the AGREEMENT between Contractor and its subcontractor(s) must specifically state the purpose for the data collection and the term of records retention must be stated, and directly related, to the purpose and use of the information. In accordance with Uniform Guidance 2 CFR Part 200 and DOL Exceptions 2 CFR Part 2900, social security numbers and other client specific information shall not be retained for more than three years after a client completes services. Contractor and/or subcontractor(s) should extend this period, only if any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the three-year retention period. In this case, the records should be maintained until completion of the action and resolution of all issues arising from it, or until the close of the three-year retention period, whichever is later.
 - (2) Client information (personal information that identifies a client such as name and social security number) and/or demographic information of a client (such as wage history, address, and previous employment) shall not be used as a basis for commercial solicitation during the time the client or agency is using Contractor and/or subcontractor(s) services. Client information and/or demographic information shall not be used for any purposes other than those specific program purposes set forth in Contractor and subcontractor(s) AGREEMENT scope of services.
 - (3) Contractor must give an America's Job Center of California (Job Center) or One-Stop Career Center (One-Stop) client the option to use the Job Center or One-Stop services, including Virtual Job Center or CalJOBS, even if he or she chooses not to use any services of Contractor and/or subcontractor(s). This option shall be prominently, clearly, and immediately communicated to the client upon registration within the Job Center or One-Stop for the Virtual Job Center or CalJOBS. This obligation applies even if Contractor's and/or subcontractor's resume-distribution services, or any other services are offered to the client.
 - (4) Contractor and/or subcontractor(s) must clearly disclose all of its potential and intended uses of the client's personal and/or demographic information for the services the client seeks and for any other services Contractor and/or subcontractor(s) offers. Contractor and/or subcontractor(s) shall not use a client's personal and/or demographic information without the client's prior permission. A link to Contractor and/or subcontractor(s) privacy policy shall appear prominently on the registration screens that list the potential and intended uses of the client's personal and/or demographic information.

- (5) When the MCWDB modifies State automated systems such as the CalJOBS or VOS systems, it shall provide reasonable notice of such changes to Contractor and/or subcontractor(s). Contractor shall be responsible to communicate such changes to its subcontractor(s) in the local area.
- n. Each party shall designate an employee who shall be responsible for overall security and confidentiality of its data and information systems and each party shall notify the other of any changes in that designation.

EXHIBIT E
List of WDB Policies
As of April 2022

Policy Number	Name of Policy	Purpose of Policy <i>(Also includes comments)</i>
2022-03	Incumbent Worker Training Policy	This policy provides guidance and establishes the procedures regarding Incumbent Worker Training (IWT) as part of comprehensive regional sector pathway programs and strategies for developing a skilled workforce and income mobility.
2022-02	Conflict of Interest Policy	The purpose of this policy is to ensure that Board members and employees who are entrusted with oversight of WIOA funds will not personally or professionally benefit from the award, administration, or expenditure of such funds; will otherwise comply with ethics laws; and will safeguard WIOA system integrity.
2022-01	Code of Conduct Policy	This purpose of this policy is to ensure that all appointed Board members conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of the Monterey County Workforce Development Board.
2021-04	Registered Apprenticeship Policy	This policy serves as guidance to the WDB and service providers relating to requirements and options for provision of training and employment opportunities in Registered Apprenticeship programs, which may be offered to eligible WIOA participants, including Out-of-School Youth, as a combination of classroom and job-based training.
2021-03	Incident Reporting	This policy provides procedures for reporting incidents, including but not limited to criminal fraud, criminal abuse or other criminal activity and non-criminal complaints, such as waste of funds, to the Compliance Review Office (CRO) of the Employment Development Department (EDD) and the Department of Labor's (DOL) Office of Inspector General (OIG).
2021-02	Career Services	This policy provides guidance and establishes the procedures for "career services" for adults and dislocated workers, rather than core and intensive services, as authorized by the Workforce Innovation and Opportunity Act (WIOA). This policy applies to all Monterey County Service Providers funded under the WIOA Title I.
2021-01	Auditing and Audit Resolution Policy	The purpose of this policy is to implement the audit resolution policy for entities receiving Workforce Innovation and Opportunity Act (WIOA) funds and meet the requirements of the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule (Uniform Guidance).
2020-14	AJCC Re-opening Policy and Guidance	The purpose of this policy is to provide specific safety measures to facilitate the prompt re-opening of all AJCC workplaces throughout Monterey County. The policies and procedures have been provided to ensure the safety of clients and staff and prevent the spread of COVID-19.
2020-13	Budget Control and Modifications Policy	The purpose of this policy is to provide guidance on Budget and Control Modifications under Workforce Innovation and Opportunity Act (WIOA) and the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule (Uniform Guidance).
2020-12	Operating Expense Payment Policy	The policy provides guidance on appropriate budgeting and expenditures of federal funds under Workforce Innovation and Opportunity Act (WIOA) and the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule (Uniform Guidance). The policy establishes oversight, authority and reasonable assurance that all financial transactions are properly recorded, accounted for and in compliance with the specific provisions of the Uniform Guidance.
2020-11	Matched and Leveraged Resources	This policy provides guidance of match expenditures and qualifications. Match is defined as additional non-Federal resources expended to further the grant objectives, if required either by statute or within the grant agreement as a condition of funding. All matching funds must be spent on allowable grant activities and in accordance with the cost principles.
2020-10	Program Income	This policy provides guidance regarding program income parameters for the Workforce Innovation and Opportunity Act (WIOA). Program income means amounts generated by a recipient or subrecipient of WIOA funds that was directly generated from a supported WIOA-underwritten activity or earned as a result of the WIOA award during the period of performance.
2020-09	Property Management	This policy provides guidance for property management and inventory. This policy applies to all subrecipients of Workforce Innovation and Opportunity Act (WIOA) funds, to ensure allowable uses of property and proper management and inventory of property funded with WIOA funds.
2020-08	Closeout -- Grants and Contracts	The purpose of this policy is to provide guidelines and requirements for the closeout of WIOA grants and subgrants.
2020-07	WIOA Accounting	The purpose of this policy is to provide operational guidance for accounting systems for recipients of Federal grant funds.
2020-06	Record Retention and Public Access	This policy sets forth the following minimum timeframe requirements for records retention, and the extent to which such records may be made available to the public. Subrecipients/subcontractors must keep records that are sufficient to permit the preparation of reports required by the Secretary of Labor and the tracing of funds to a level of expenditure adequate to ensure that the funds were spent lawfully.
2020-05	Allowable Costs and Cost Classification	This policy provides guidance and establishes procedures regarding general cost principles, allowable costs, and prior written approval related to the Workforce Innovation and Opportunity Act (WIOA) Title I Funds and the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule (Uniform Guidance).
2020-04	Internal Control Policy	This policy describes the WDB's internal control system and sanctions for non-compliance and provides guidance to WDB staff relating to the role they play in ensuring strong organizational internal controls.
2020-03	Debt Collection	This policy transmits the procedure for debt collection associated with the misexpenditure of WIOA funds.

Policy Number	Name of Policy	Purpose of Policy <i>(Also includes comments)</i>
2020-02	Cash Management Policy	The purpose of this policy is to establish sound cash management practices to ensure efficient use of cash consistent with MCWDB's Strategic Plan.
2020-01	WIOA Monitoring Policy	This policy establishes standards for fiscal and program monitoring, and Nondiscrimination and Equal Opportunity compliance monitoring of Workforce Innovation and Opportunity Act (WIOA) service providers and training providers on MCWDB's ETPL.
2019-06	Transitional Jobs Policy	The purpose of this policy is to provide guidance to MCWDB service providers regarding the limitations and requirements for the placement of WIOA Adults and Dislocated Workers into transitional jobs.
2019-05	WIOA Training Expenditure Requirements	This policy provides guidance and established the procedures regarding the Workforce Innovation and Opportunity Act (WIOA) training expenditure requirement imposed by Assembly Bill 1149.
2019-04	Work Experience Policy and Guidance	This policy establishes the process for the implementation of WIOA-funded Work Experience (WEX) training opportunities for WIOA-eligible Youth program participants.
2019-03	Authorization to Work Policy	This policy establishes the procedures to verify authorization to work documents, including which services require verification, when to ask, and where to refer individuals for additional services.
2019-02	Procurement Standards	This policy establishes procedures governing the use of WIOA funds to procure goods and services.
2019-01	Grievance and Complaint Policy	This policy establishes procedures that govern the receipt, handling, and resolution of non-criminal grievances or complaints made in connection with local area WIOA Title 1 programs and activities.
2019-00	Services and Referrals to Victims of Human Trafficking	This policy provides the guidance and establishes the procedures regarding services and referrals to victims of human trafficking.
2018-13	Individual Training Accounts (ITA)	The purpose of this policy is to provide guidelines for implementing ITAs that are flexible and maximize informed customer choice in selecting an eligible training provider. This policy sets the training limit amount to \$5,000 (as funds are available) and the duration of ITAs (up to 12 months) developed for eligible individuals funded under WIOA within Monterey County.
2018-12	2018 LLSIL and Poverty Guidelines	The purpose of this policy is to provide the annual update of the LLSIL and Poverty Guidelines used to establish low-income status for WIOA Title I programs to determine income eligibility for youth, income eligibility for employed adults for certain services, and self-sufficiency.
2018-11	On-the-Job Training (OJT) Policy	The purpose of this policy is to provide guidance and criteria used in the development of and the administration of On-the-Job Training (OJT) contracts in compliance with Section 134(c) of WIOA, which authorizes local boards to reimburse employers up to a maximum of 75% of the wage of an OJT participant.
2018-10	Incumbent Worker Policy	This policy provides guidance regarding Incumbent Worker Training (IWT), which is designed to meet the specific requirements of an employer, and is conducted with a commitment to retain the incumbent workers trained.
2018-09	Audit Resolution Policy	This purpose of this policy is to set forth written procedures, as indicated in the WIOA regulations, for the Monterey County Workforce Development Board (MCWDB) staff and its subrecipients to follow regarding the requirements for audit resolution. This policy requires that all subrecipients expending WIOA funds shall comply with federal and state audit resolution requirements.
2018-08	WIOA Youth Program Requirements	This policy provides guidance and establishes the procedures regarding the WIOA youth program, including out-of-school youth and 20% work experience minimum expenditure requirements.
2018-07	Cost Allocation Plan Methodology	This operational policy provides guidance and establishes principles and standards to provide a uniform approach for determining cost and to promote effective program delivery.
2018-06	Priority of Service for Adult Programs	This policy is to provide guidance regarding MCWDB's Priority of Service for WIOA Title I Adult Programs. With respect to funds allocated to a local area for adult employment and training activities, priority shall be given to recipients of public assistance and other low-income individuals, and individuals who are basic skills deficient, for receipt of WIOA career and training services. Local WDBs may establish additional priority groups for priority of service.
2018-05	WDB Supportive Services Policy	This policy addresses the use of WIOA Title I funds for supportive services to eligible participants enrolled in the WIOA Adult, Dislocated and Youth programs. The policy includes documentation requirements to show that the supportive service is allowable, reasonable and not otherwise available to the participant.
2018-04	Selective Service Registration	The purpose of this policy is to provide guidance regarding the Selective Service registration requirements for participation in WIOA-funded services. Additionally, this policy contains model questions for WIOA staff to determine whether failure to register by a current or potential WIOA participant was knowing and willful.
2018-03	Limited English Proficiency	This policy seeks to establish procedures regarding the prohibition against national origin discrimination as it affects persons with Limited English Proficiency (LEP) and also to outline how the AJCC delivery system will serve these special populations.
2018-02	Reasonable Accommodation and Modification for Individuals with Disabilities	The policy provides direction in the processing of reasonable accommodation requests and outlines the definition of disability and procedures for the provision of accommodation to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship.
2018-01	Non-Discrimination and Equal Opportunity	This policy provides guidance on the nondiscrimination and equal opportunity procedures for WIOA Title I and MCWDB financially assisted programs or activities. It also issues a standard form that is available for use by MCWDB subrecipients when processing a discrimination complaint.

Policy Number	Name of Policy	Purpose of Policy <i>(Also includes comments)</i>
2017-04	Unlikely to Return Policy	The policy outlines the definition and eligibility requirements be used when determining an individual's unlikeliness to return to their previous industry or occupation.
2017-03	WIOA Adult and Dislocated Worker Eligibility Documentation and Verification	This policy provides information and guidance pertaining to the MCWDB's definition of WIOA Title 1 Adult and Dislocated Worker eligibility documentation and verification procedures.
2016-03	Release of Confidential Unemployment Insurance Information	This policy provides guidance and establishes procedures regarding the process for WIOA subrecipients to obtain Unemployment Insurance information from EDD for WIOA customers.
2016-02	Handling and Protection of Personally Identifiable Information	The purpose of this policy is to provide guidance on compliance with the requirements of handling personally identifiable information.

**EXHIBIT F – ADDENDUM
ONE-STOP OPERATOR, ADULT/DISLOCATED
WORKER, AND YOUTH SERVICES
PROVIDED UNDER TITLE I OF
THE WORKFORCE INNOVATION AND OPPORTUNITY
ACT**

This Addendum is to the Agreement entered into by and between the Monterey County Workforce Development Board (hereinafter referred to as the "WDB"), and Arbor E&T, LLC dba Equus Workforce Solutions (hereinafter referred to as "EWS"), for the provision of Workforce Innovation and Opportunity Act (WIOA) Title I services in Monterey County.

WHEREAS, the WDB did previously properly procure and contract for services by EWS under the Workforce Innovation and Opportunity Act (WIOA) for the purpose of retaining EWS to perform the duties of a One-Stop Operator; and

WHEREAS, the WDB did previously properly procure and hereby contracts for services by EWS under WIOA for the purpose of retaining EWS to perform the duties of Adult and Dislocated Worker Career Services Provider to eligible individuals in Monterey County; and

WHEREAS, the WDB did previously properly procure and hereby contracts for services by EWS under WIOA for the purpose of retaining EWS to perform the duties of Youth Services Provider to eligible youth in North County Monterey and the Monterey Peninsula; and

WHEREAS, EWS and the WDB have entered into three (3) independent contracts, each with a detailed Scope of Work, effective July 1, 2022, May 1, 2019, and July 1, 2022 respectively:

1. One-Stop Operator
2. WIOA Adult and Dislocated Worker Career Services Provider
3. WIOA Youth Services Provider; and

WHEREAS, this Addendum was developed to promote transparency because EWS is performing multiple functions in the local one-stop system according to the independent Scope of Work for each contract; and

WHEREAS WIOA provides as follows:

- Section 679.430 specifically addresses the relationship between a One-Stop Operator and a Service Provider and establishes the need for internal controls to prevent conflicts of interest;

- Section 678.620, in response to comments, the Department of Labor stresses the importance of appropriate firewalls between service provision staff and oversight of the system; and
- Section 678.625 indicates that specific policies and procedures are to be written and incorporated as standard protocols that address the oversight, monitoring, and evaluation of performance for both the Operator and Service Provider;

Now, therefore, EWS and the WDB hereby acknowledge and affirm the following:

- EWS will not develop or be involved in the development of procurement documents or any part of the procurement and selection process as it relates to the One-Stop Operator, Provider of Adult and Dislocated Worker Career Services, Provider of Youth Services, or any other procurement where EWS may have a perceived or real interest;
- EWS will not establish or implement policies or engage in practices that create impediments to other service providers to properly assist individuals nor will EWS create an advantage or preference for the EWS Career Services or Youth Services programs over any other partner program (e.g., preference for referrals for services);
- EWS will not convene system stakeholders to assist in the development of the local plan;
- EWS will not prepare and submit local plans (as required under sec. 107 of WIOA);
- EWS will not provide oversight of itself as either the Services Provider or the One-Stop Operator as follows:
 - ▶ EWS employees performing One-Stop Operator functions will not supervise, review or oversee, directly or indirectly, any EWS employee performing Career or Youth Services provider functions;
 - ▶ EWS employees performing One-Stop Operator functions will not rate or evaluate the performance of any EWS employees performing Career or Youth Services provider functions or vice versa;
 - ▶ EWS employees performing One-Stop Operator functions and EWS employees performing Career or Youth Services provider functions will establish a “firewall” between them and, as such shall not discuss, review, or communicate regarding their performance of their respective, separate WIOA functions;
 - ▶ EWS employees performing One-Stop Operator functions and EWS employees performing Career or Youth Services provider functions will interact at arms’ length, objectively, limited to enabling EWS to perform its coordination and management functions as One-Stop Operator;
- EWS will not select or terminate one-stop operators, career services providers, or youth services providers;
- EWS will not negotiate local performance accountability measures on behalf of the local area or on behalf of other service providers;
- EWS will not develop and submit a budget for activities of the WDB in the local Monterey County workforce area.

- As stated above, EWS employees performing One-Stop Operator functions and EWS employees performing Career or Youth Services provider functions will not have a direct or indirect reporting relationship to one another within the EWS structure; leaders under each contract shall report directly and separately to the Vice President, Service Delivery; and

EWS has an established Code of Conduct, a copy of which is attached to this addendum, which was created to set standards for and promote honesty and ethical conduct, avoidance of actual/apparent conflicts of interest, and legal compliance. All EWS employees are trained annually on the terms and application of the EWS Code of Conduct; all EWS employees are required to annually submit to EWS, in writing, their agreement to the terms of the EWS Code of Conduct.

EWS will provide the WDB with copies of the signed written agreements to the EWS Code of Conduct executed by all EWS employees performing One-Stop Operator functions and all EWS employees performing Career or Youth Services provider functions. In signing the EWS Code of Conduct, each EWS employee commits to prompt reporting of violations of the code, proper disclosure, and full accountability in accordance with the terms of the Code. Should an apparent or real conflict of interest come to EWS' attention, EWS commits to notifying the WDB immediately, as well as the EWS Compliance Department.

Code of Conduct

Do the right thing...
know the right thing to do.





Making a difference in people's
lives and communities.

*Creating optimal environments for people
in need of assistance, through attentive and
quality service principles.*

So they can live their best life.



Table of Contents

Foreword..... 6

LEGACY Quality Standards..... 7

Code of Conduct

Leadership

Regulatory Compliance 9

Accrediting Bodies 9

Kickbacks, Gratuities and Anti-Bribery10

False Claims.....10

Marketing Practices10

Antitrust.....10

Political Contributions11

International Relations11

Professional Licensure.....11

Environment

Quality of Supports and Services..... 12

Information Involving People We Support/
Privacy Rules and Guidelines 12

Rights of Individuals We Support13

Professional Boundaries.....13

Abuse and Neglect13

Safety13

Funds and Private Property of People We Support..... 14

Alcohol- and Drug-Free Work Environment.....14

Harassment, Discrimination and Workplace
Violence 15

Equal Employment Opportunity 15

Retaliation..... 15

Get Going!

Corporate Opportunities.....	16
Conflicts of Interest	16
Reporting of Time Worked and Services Provided ..	17
Financial Disclosure, Insider Information and Securities Trading	17
Background Checks	17
Controlled Substances	18

Attitude

Violations of the Code of Conduct	19
---	----

Communication

The Compliance Action Line	20
Confidentiality	21
Electronic Media	22
Information Security	22
Outside Contacts	22

You!

Managing Company Resources and Assets	23
Purchase Card Usage	24
Billing for Services	24
Cost Reports	24
Accuracy, Retention and Disposal of Documents and Records	25
<i>Identifying a Compliance Issue</i>	26

Dear Fellow BrightSpring Employee:

BrightSpring is committed to providing the highest quality supports to all persons. It is our responsibility to ensure an ethical and compassionate approach to service delivery and management. With the growth in our services and personnel over the past few years, it is vital for BrightSpring to maintain our high standard of quality, compliance and ethical behavior. We have enhanced our existing programs by formalizing the necessary compliance activities for BrightSpring to achieve an effective Compliance Program.

BrightSpring's commitment to compliance was demonstrated by the Board of Directors when they signed the Resolution formally creating the Compliance Program on January 10, 2001. The Compliance Program is based upon standards that serve as a guide to each employee's conduct involving our operations and the people we support.

A very important element of an effective compliance program is a Code of Conduct. The Code of Conduct has been reviewed by Regional/Divisional Management and Resource Center Leadership and has been approved by the Ethics and Compliance Committee of the Board of Directors.

It is critical that you understand your responsibility to not only adhere to these principles of conduct, but to also actively participate in

and promote compliance.

We are committed to the ideals in our Common Purpose and in this Code of Conduct. We are equally committed to ensuring that our actions consistently reflect our words. In this spirit, BrightSpring is committed to be the best diversified health and human services provider in serving populations of various needs in our communities, creating optimal environments that foster independence, safety and outcomes through best-in-class services, an innovative and technology-led approach, and highly engaged people.

We expect all of our colleagues' actions to reflect the high standards set forth in this Code of Conduct. However, no code of conduct can substitute for our own internal sense of ethics, honesty and integrity.

Should you find yourself in a work situation that just "does not feel right," please discuss the situation with your supervisor, another member of local management, your regional/divisional management team or any member of the Compliance Department.


You may also call the Compliance Action Line at 866.293.3863. You have our personal assurance there will be no retaliation for asking questions or raising good-faith concerns about the Code of Conduct or

for reporting possible improper conduct. Improper use of the Compliance Action Line for intentional false reporting, however, will lead to corrective action.

In closing, we trust you as a valuable member of our team. We ask you to assist us and all of our colleagues at BrightSpring in supporting the values and principles which are critical to achieving our mission.



Jon Rousseau,
President and CEO



David Braddock, Ph.D.
Board of Directors
Chairman, Ethics and
Compliance Committee

Foreword

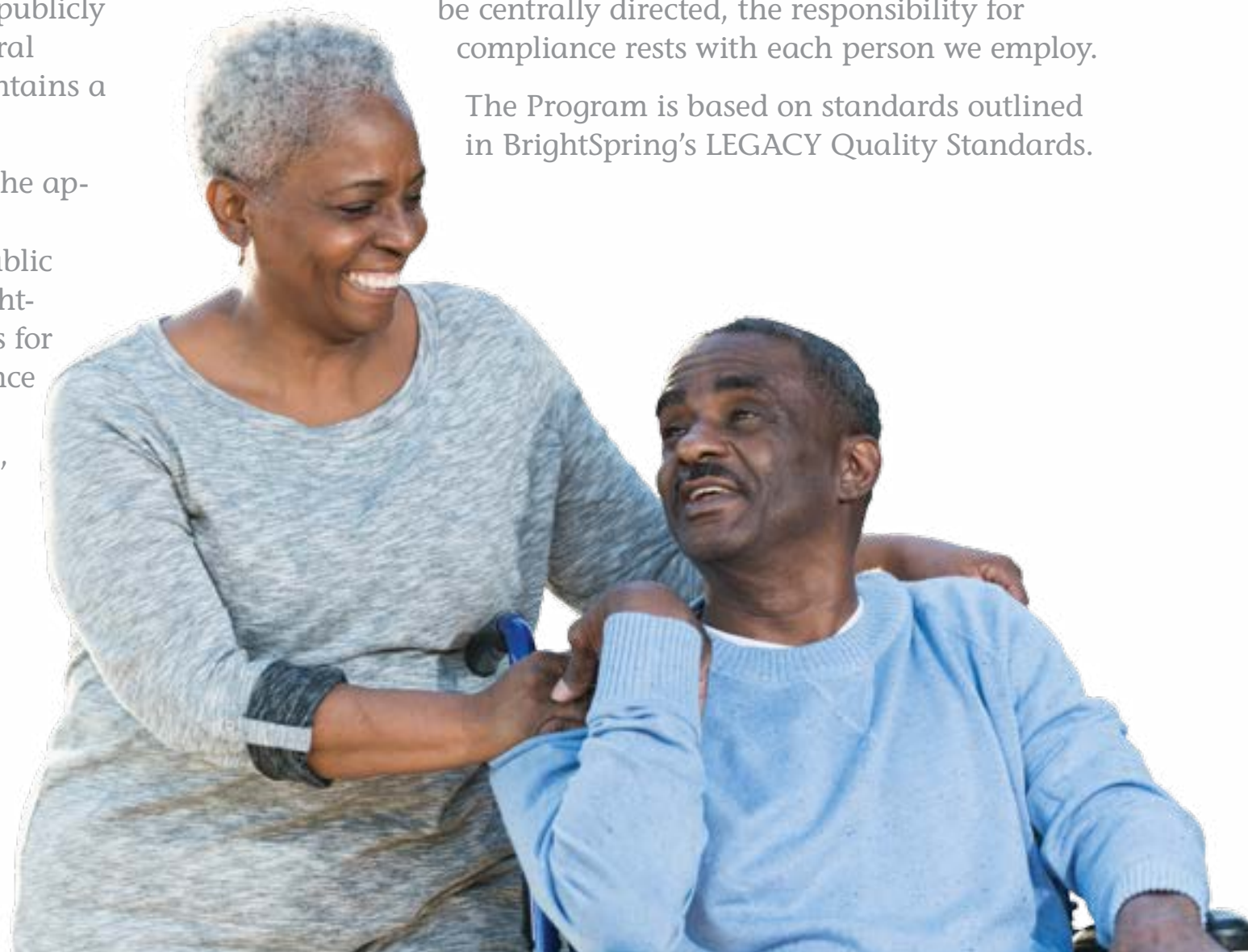
BrightSpring is committed to demonstrating the reliability, honesty, and the highest degree of business integrity expected of a publicly traded company and a participant in local, state and federal programs. Because of this commitment, BrightSpring maintains a Compliance & Ethics Program (the “Program”).

Constant vigilance is necessary to avoid impropriety and the appearance of impropriety as well as to avoid intentional and unintentional inaccuracies in public reporting and public communications about BrightSpring and its business. BrightSpring’s Code of Conduct has been created to set standards for and to promote (1) honest and ethical conduct; (2) avoidance of actual or apparent conflicts of interest; (3) compliance with applicable federal, state and local governmental laws, regulations and rules; (4) compliance with BrightSpring’s policies and procedures; (5) prompt internal reporting to appropriate persons of violations of the Code; (6) full, fair, accurate, timely and understandable disclosure in reports and documents that BrightSpring may file with or furnish to the Securities and Exchange Commission and in other public communications BrightSpring makes; and (7) accountability for adhering to the Code.

Any exception of this Code may be made only by the Board of Directors or its designee and will be promptly disclosed as required by law or stock exchange rules.

Although the implementation and enforcement of the Program will be centrally directed, the responsibility for compliance rests with each person we employ.

The Program is based on standards outlined in BrightSpring’s LEGACY Quality Standards.



BrightSpring's LEGACY Quality Standards

Leadership

Everyone is a leader. Establish purpose and coach to make others better. A sense of high integrity and accountability – do what you say you are going to do.

Environment

A people-focused environment. Collaborate among a trusting team; police your environment. Be transparent and honest and reward good performance. Attract, develop and retain the best people.

Get Going!

Know your business! Take action to set and hit goals. Work smart and efficiently, moving with a sense of purpose and urgency.

Attitude

See the possibilities. Take a positive, can-do approach because it is contagious. Aim high and expect excellence. Take ownership and control – continuously improve.

Communication

Everyone in the know. Coordinate through communicating so people know what's going on.

You!

Be an example. Set high standards but note progress and the good. Your character shows in everything you do. Do your part, build your team and have fun.

BrightSpring's LEGACY Standards require a commitment from each employee for its success. Employees are expected to follow BrightSpring's LEGACY Quality Standards in their daily interactions with clients and clients' family members, co-workers and other persons they encounter as a part of their employment with the Company.

Code of Conduct

Leadership

Regulatory and BrightSpring Policy Compliance

Regulatory Compliance means following all applicable federal laws, regulations and standards such as those set forth by the Centers for Medicare & Medicaid Services (CMS) and the Department of Labor (DOL), along with state and local laws, regulations, and standards. BrightSpring Policy Compliance means following all applicable Company policies and procedures. It is your responsibility to do your part to ensure that all applicable laws and regulations are followed in the course of daily business. While these laws and regulations can sometimes be confusing and complex, you may contact your immediate supervisor, local/regional management team or any member of the Compliance Department to ask any questions.

Accrediting Bodies

Certain operations may be required to or may voluntarily seek accreditation through an accrediting body. Accrediting bodies are outside agencies or organizations that are certified or licensed by federal and/or state government to review and certify that an organization conducts business according to certain standards. Examples of accrediting bodies are the joint Commission for the Accreditation of Healthcare Organizations (JCAHO), Commission on Accreditation of Rehabilitation Facilities (CARF),



and The Council on Quality and Leadership in Support for People with Disabilities. Loss of accreditation can make it difficult for an organization to conduct business. It is important that every person employed at BrightSpring follow the applicable rules and regulations to maintain accreditation from these agencies.

Kickbacks, Gratuities and Anti-Bribery

Federal and state laws prohibit BrightSpring and its employees from offering anything of value to a person or entity in order to influence or refer a person needing supports. These laws also prohibit BrightSpring and its employees from accepting anything of value under similar circumstances. In addition, BrightSpring policy prohibits the acceptance of gratuities, in the form of gifts or money, from the individuals we support, family members, guardians or vendors. Gifts and/or money should be returned with an explanation that Company policy does not permit acceptance.

Anti-kickback laws can be highly complex so employees should promptly refer any questions to the Compliance Department. The Compliance Department may refer the question to legal counsel, as appropriate.

False Claims

BrightSpring and its employees are prohibited from filing false claims for payment to federal, state, local or private funding sources. False claims are usually related to billing for services that do not meet federal and/or state laws and regulations. Billing practices that violate these laws include (1) filing a claim for services that were not performed or were not performed as described on the claim form; (2) filing a claim for services that were performed but were not

medically or otherwise necessary; or (3) submitting a claim containing information you know to be false.

The federal False Claims Act and similar state or local laws impose civil liability on any person or entity who submits a false or fraudulent claim for payment to the United States government. A false claim can result in serious civil and/or criminal penalties against BrightSpring and individual employees, including significant financial penalties and criminal prosecution. BrightSpring policies include information on False Claims Acts, employee protections under these laws, and BrightSpring's internal procedures for detecting fraud, waste and abuse.

Marketing Practices

The marketing practices of BrightSpring must always be based on factual information. We do not engage in negative comments regarding other providers of service. Distortion of the truth or making false claims is strictly prohibited. (See also Kickbacks, Gratuities and Anti-Bribery.)

Antitrust

The purpose of antitrust laws is to create a level playing field in the marketplace, as well as to promote fair competition. You must always follow all applicable laws and regulations designed to regulate competition. Actions that violate antitrust laws include entering into or negotiating an agreement with a competitor to (1) fix prices (rates) at any level or fix other terms of service; (2) allocate customers or markets; or (3) boycott a supplier or customer. If you have any questions regarding the appropriateness of any form of negotiation or agreement, you should refer your questions to the

Legal Department. However, any suspected violations are to be referred to the Compliance Department. The Compliance Department will consult with legal counsel, as required.

Political Contributions

Because public policy issues have the potential to impact the Company's business, its employees, and the people we serve, the Company's management believes that in certain cases it may be appropriate and in the Company's best interests to use its resources to make political contributions. Therefore, if legally permissible, such contributions may be made by the Company with the prior written approval of the Vice President for Government Relations. BrightSpring has also established a Political Action Committee (PAC), which is funded through voluntary contributions from employees. Most political contributions are made by the PAC. The Government Relations Department is responsible for compliance with all federal and state laws. Employees have a constitutionally protected right to support political candidates and issues of their choosing. While engaged in such activities, employees must at all times make clear that their views and actions are their own, and not those of BrightSpring. At times, BrightSpring may alert you of public policy issues that may impact BrightSpring's business. The Company may ask for volunteers to make personal contact with government officials or to write letters to present our position on specific issues. If you have any questions regarding political activity, you may contact the Government Relations Department.

International Relations

BrightSpring employees must follow the laws of the jurisdiction wherever they are around the world, as well as comply with the Foreign Corrupt Practices Act of the United States. Our objective is to be a good corporate citizen wherever we operate.

Professional Licensure

If any BrightSpring staff are licensed or certified clinicians (including but not limited to physician, nurse, physical therapist, speech therapist, occupational therapist, social worker, pharmacist, etc.), they will uphold the clinical practice guidelines promulgated for their specific license or certification. Moreover they will maintain the current status of their licensure or credentials and comply at all times with federal and state requirements for their discipline.



Environment

Quality of Supports and Services

BrightSpring provides individualized quality supports and services to all persons. We treat all people with respect and care.

Information Involving People We Support/ Privacy Rules and Guidelines

All information concerning persons supported by BrightSpring must be considered confidential and access limited to the person supported, guardian or legal representative, persons providing support or other persons specifically authorized.

All programs and services must ensure that the individual's right to privacy is honored at all times. Without specific informed authorization, any information, whether written, electronic or social media, video,



photographic, audio or other personal information, may not be disclosed.

BrightSpring collects information about a person's medical history, social history, treatment history and personal goals and abilities in order to provide the best possible supports. We recognize the sensitive nature of this information and are committed to maintaining confidentiality as required by local, state and federal regulations.

Under the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH), you may discuss person-specific health/medical information with others only when necessary to provide a service or as required by law. Person-specific information may be released for all other purposes only with written authorization from the person supported or that person's legal guardian, as appropriate.

You may not disclose protected health information that violates the privacy of any person supported because this is a violation of the HIPAA privacy rules. BrightSpring's HIPAA policies and procedures give more specific guidance regarding the privacy rules. Any questions regarding protected health information should be discussed with your Executive Director, Center Director, or Project Director. If a question remains, please refer it to BrightSpring's Chief Compliance and Privacy Officer in the Resource Center.

Rights of Individuals We Support

BrightSpring is an advocate of rights for the persons supported in all its programs. Each person is provided with a written statement

of rights when services with BrightSpring begin. Family and/or legal guardians are also given a copy of this statement of rights. The statement includes the civil rights of the person supported to make informed decisions regarding services and supports.

As providers, we will also be sensitive to cultural beliefs and practices of the people we support.

Professional Boundaries

BrightSpring places a high priority on our relationships with the people we support. You must maintain the highest level of professional conduct when building relationships with individuals we support, their families and their friends. This includes maintaining physical boundaries by respecting personal space. You must treat all persons we support with equal respect and avoid having "favorites" or treating a person we support "special" in relation to other people we support. You must be aware of policies at your operation regarding relationship boundaries with the people we serve.

Abuse and Neglect

BrightSpring does not tolerate abuse and neglect of the individuals we support. If you are aware of abuse or neglect, your obligation is to report it immediately through the established channels at your operation. There are time frames for reporting such incidents in each state, and it is very critical for you to follow the guidelines at your operation. It is your responsibility to uphold the mission statement of providing respect and care.

Safety

BrightSpring operations must comply with all company, local,

state and federal rules/regulations that promote the protection of workplace health and safety. You must be familiar with safe workplace practices and safety regulations related to your job and to your working environment. It is important for you to report to your supervisor any workplace injury, as well as any situation presenting a danger of injury so that it can be corrected immediately.

Funds and Private Property of People We Support

BrightSpring employees may not wrongfully or unlawfully use funds, property or the identities of individuals we support. BrightSpring will not tolerate the misappropriation of assets whether in the custody of BrightSpring or in the custody of the individual. BrightSpring employees have a duty to maintain adequate records of an individual's funds and property in the company's custody so that the funds and property may be promptly accounted for or delivered to the individual we support or their designated representative upon request. An individual's assets in the custody of BrightSpring shall be used only for the means intended for the benefit of the individual. In addition, BrightSpring employees may not purchase or borrow money or belongings from individuals we support or their family members.

Alcohol- and Drug-Free Work Environment

BrightSpring is committed to an alcohol-free and drug-free work environment to protect the interests of our employees and the people we support. You must report for work free of the influence of alcohol and illegal drugs. Reporting to work under the influence of alcohol or any illegal drug, having alcohol or any illegal drug in your system, or using, possessing or distributing any illegal drug while on work time or property will result in corrective action, up to and including termination of employment.



Harassment, Discrimination and Workplace Violence

You have the right to work in an environment free of harassment and/or discrimination. BrightSpring will not tolerate harassment or discrimination by anyone based on the personal characteristics or cultural backgrounds of those who work with us or whom we support. Degrading or humiliating jokes, slurs, intimidation, or other harassing conduct, regardless of the medium in which it is shared, is not acceptable in our workplace.

Any form of sexual harassment is strictly prohibited. This prohibition includes unwelcome sexual advances or requests for sexual favors in conjunction with employment decisions.

Harassment also includes incidents of workplace violence. Workplace violence includes threats of physical violence, robbery and other commercial crimes, stalking or domestic violence, violence directed at the employer, terrorism and hate crimes committed by current or former employees.

As part of our commitment to a safe environment for our employees and the individuals we serve, we prohibit employees from possessing firearms, other weapons, explosive devices or dangerous materials on BrightSpring premises.

If you observe or experience any form of harassment, discrimination or workplace violence you must report the incident to your immediate supervisor, local management, regional management, BrightSpring's Human Resources Department or BrightSpring's Compliance Department.

Equal Employment Opportunity

BrightSpring is committed to providing an equal opportunity work environment. We will comply with all laws, regulations and policies related to non-discrimination in all of our personnel actions. Such actions include hirings, staff reductions, transfers, employment terminations, performance evaluations, recruiting, compensation, corrective action and promotions.

Retaliation

Employees have a responsibility to report concerns about actual or potential wrong-doing either witnessed or suspected. Both direct and anonymous reporting mechanisms are available to all BrightSpring employees to assist in meeting this responsibility.

BrightSpring's non-retaliation policy protects employees, who in good faith, report known or suspected instances of inappropriate business conduct or activity that violates local, state or federal regulations or Company policy. Supervisors, managers or employees are not permitted to engage in retaliation, retribution or any form of harassment or discrimination directed towards an employee who reports a good faith compliance concern.



Get Going!

Corporate Opportunities

BrightSpring employees owe a duty to BrightSpring to advance the Company's legitimate interests when the opportunity to do so arises. You may not take for yourself a corporate opportunity that is discovered in the course of your BrightSpring employment or representation or through the use of corporate property, information or position, nor may you compete against BrightSpring.

Conflicts of Interest

Employees shall not engage in any activities that conflict or might appear to conflict with the interests of BrightSpring or its subsidiaries and shall bring to the attention of the BrightSpring Compliance Department any information about any actual or apparent conflicts of interest involving employees or others with respect to BrightSpring.

A conflict of interest occurs when an employee's private interests interfere in any way with the interests of BrightSpring. A conflict of interest may also exist if the demands of any outside activities distract you from the performance of your job or cause you to use BrightSpring's resources for a non-BrightSpring purpose. An employee's obligation to conduct BrightSpring's business in an honest and ethical manner includes the ethical handling of actual or apparent conflicts of interest between personal and professional relationships. You must remain free of conflicts of interest for the proper performance of your responsibilities.



Before making any investment, accepting any position or benefits, participating in any transaction or business arrangement or otherwise acting in a manner that creates or appears to create a conflict of interest, an employee must make full disclosure of all facts and circumstances to BrightSpring's Legal Department, and obtain the prior written approval of BrightSpring's Chief Legal Officer. The disclosure obligations of employees extend to disclosure of changed circumstances relating to apparent or actual conflicts of interest.

Reporting of Time Worked and Services Provided

Each employee of BrightSpring is responsible for the timely and accurate reporting of time worked and documenting services provided. Any falsification of hours or services is a serious violation of company policy and will result in corrective action, up to and including termination of your employment.

Financial Disclosure, Insider Information and Securities Trading

While BrightSpring is not a publicly traded company, from time to time its executive and financial officers may make full, fair, accurate, timely and understandable disclosures in periodic reports filed by BrightSpring with the Securities and Exchange Commission (SEC). The CEO and senior financial officers shall be responsible for BrightSpring's policies and procedures that provide the most accurate and truthful reporting of BrightSpring's business and financial performance and shall promptly bring to the attention of the Audit Committee or its designee any material information of which they may become aware that may affect the disclosures made by BrightSpring in its filings.

As an employee, you may become aware of nonpublic information

about BrightSpring that would influence another person to buy, hold or sell stock. This is known as "insider information." Securities law and BrightSpring policy prohibit individuals from trading in BrightSpring stock or other marketable securities on the basis of non-public material information or from influencing others to trade in such securities based on this information.

Non-public insider information may include discussions or plans regarding expansion, marketing strategy, financial results or other business activity. You may not discuss this type of information with anyone outside BrightSpring. At work, you should discuss this information on a strictly "need to know" basis only with other employees who require this information to perform their jobs.

If you obtain access to non-public material information about the company while performing your job, you may not use that information to buy, sell or retain securities of BrightSpring or any other company. Even if you do not buy or sell securities based on what you know, discussing the information with others, such as family members, friends, vendors, suppliers and other outside acquaintances is prohibited. If you have any questions regarding insider trading/security trading, you should refer your questions to the Legal Department.

Background Checks

Background checks may include social security, motor vehicle, government sanctions/exclusions and criminal history for each new employee, volunteer or intern as consistent with your operation's policy. Retention or contracting of independent contractors, vendors, temporary agencies and/or other business associates must also be screened in accordance with BrightSpring's Screening/Interview Process policy.

BrightSpring will not knowingly hire, retain, employ or contract with any individual or entity that has been excluded from participation in any state- and/or federally-funded program. BrightSpring also will not knowingly conduct business or continue to conduct business with any individual or entity, whether independent contractor, sub-contractor, supplier or vendor, who has been excluded from participation in any state- and/or federally-funded program.

You must advise your immediate supervisor, local management team or the Compliance Department if you become ineligible to participate in state- and/or federally-funded programs.

Verification of licenses, certifications, and scholastic information must be made through the appropriate licensing or certifying agency. Failure to obtain proper verification may result in the filing of a false claim if the employee or contractor providing the service

was later found not to be properly credentialed.

Controlled Substances

In many operations, only a nurse can administer medication. If you are unaware of who administers medication at your operation, ask your supervisor. If medication administration is included as part of your responsibilities, you will have routine access to prescription drugs, controlled substances and other medical supplies. It is extremely important that these items be handled and accounted for properly. You must be trained in accordance with operation/state policy to administer medications. Medications must only be used for the person to whom they are prescribed. If you become aware of the removal or diversion of drugs or medical supplies from BrightSpring, you must report the incident immediately through established operational procedure.



Attitude

Violations of the Code of Conduct

The Board of Directors shall determine, or designate appropriate persons to determine, appropriate actions to be taken in the event of violations of the Code of Conduct. Such actions shall be reasonably designed to deter wrongdoing and to promote accountability for adherence to the Code of Conduct and may include progressive corrective action, written notice to the individual involved that there has been a violation, demotion or reassignment of the individual involved, suspension with or without pay or benefits or termination of the individual's employment. In determining what action is appropriate, all relevant information shall be taken into account, including the nature and severity of the violation, whether the violation was a single occurrence or repeated occurrences, whether the violation appears to have been intentional or inadvertent, whether the individual in question had been advised prior to the violation as to the proper course of action and whether or not the individual in question had committed other violations in the past.

Communication

The Compliance Action Line

The Compliance Action Line is available to supplement your existing internal communication channels. The Compliance Action Line is intended to be used to report compliance-related concerns. You should first attempt to communicate your concerns through your existing internal communication channels, such as your immediate supervisor and/or local/regional/divisional management team. If the existing internal communication channels seem inappropriate, you may either write, email or call the Compliance Department (800.866.0860, ext. 2659).

You may call the BrightSpring Compliance Action Line at 866.293.3863 at anytime. A trained interviewer will be available 24 hours a day, 365 days a year. Calls to the Compliance Action Line will not be traced and will be treated confidentially. You may remain anonymous if you choose.



No caller will be subject to retaliation for bringing forth a good faith concern. Anyone who attempts to retaliate against an employee who has made a call to the Compliance Action Line in good faith will be subject to corrective action, up to and including termination of employment.

Any person using the Compliance Action Line to purposely report false information or to attempt to settle personal grievances by making false reports or repeating reckless gossip will be subject to corrective action.

Remember, the Compliance Action Line is available to supplement existing communication channels. It is NOT intended to replace your local management team or procedures for reporting critical incidents.

In addition to the Compliance Action Line, BrightSpring's website, www.BrightSpringHealth.com, offers a contact section for email access to the Compliance Department as another method to communicate compliance concerns.

Confidentiality

Confidential information may be used to perform your job, but it must not be given to others outside BrightSpring or your department unless authorized by your supervisor.

All programs and services must ensure that the privacy of the individuals we support is honored at all times. Without specific informed authorization, any information, whether written, electronic/social media, video, photographic, audio or other personal information may not be disclosed.

Confidential information about BrightSpring's strategies and operations is a valuable asset. Confidential information includes personnel data maintained by the company, lists of persons supported, file records of persons supported, individual service plans, individual plans of care, clinical information, pricing and cost data. It also includes, but is not limited to, information pertaining to acquisitions, divestitures, affiliations and mergers, financial data, research data, strategic plans, marketing strategies/techniques, employee lists and data maintained by the company, supplier and subcontractor information and proprietary computer software. (Also see sections: Information Involving People We Support /Privacy Rules and Financial Disclosure, Insider Information and Securities Trading.)



Electronic Media

BrightSpring's communications systems, including electronic mail (email), intranet, internet access and voice mail, are the property of BrightSpring.

BrightSpring reserves the right to periodically access, monitor and disclose the contents of intranet, email and voice mail messages. Access and disclosure of individual employee messages may only be done with the approval of the Legal or Compliance Departments.

Employees may not use internal communication channels or access to the internet to post, store, transmit, download or distribute any threatening, reckless, maliciously false, pornographic or obscene materials. This includes anything constituting or encouraging a criminal offense, giving rise to civil liability or otherwise violating any laws.

Employees who abuse our communications systems or use them excessively for nonbusiness purposes may lose these privileges and be subject to corrective action, up to and including termination of employment.

Information Security

To ensure regulatory compliance, BrightSpring computer users are expected to maintain good security practices by being familiar with and following the Company's Information Systems Security Policy. You are expected to ensure the confidentiality (privacy) of sensitive data by only disclosing it when there is a "need to know," not accessing sensitive information for the sake of curiosity, keeping portable electronic devices appropriately secured, and locking computer workstations before stepping away from your desk.

To maintain a secure operating environment, it is important that you save all files on BrightSpring servers rather than directly onto computer workstations, never share passwords, never write down passwords, choose complex and hard-to-guess passwords, report suspicious and unusual activity, and never open email attachments from suspicious or unknown sources.

Immediately advise BrightSpring's Information Technology (IT) Department, Legal Department and Compliance Department of any information security breach or theft/loss of any electronic data or device, including mobile phones, laptop computers or portable storage device (USB drive).

Outside Contacts

BrightSpring's Communication Department will advise your department/operation regarding any known or expected media inquiries.

You must immediately contact your supervisor or local management in the event that outside media should appear at your workplace asking questions or requesting to enter the premises. You have no obligation to allow any unauthorized personnel into your work premises. It is a breach of privacy to allow such unauthorized personnel into the residence of a person we support.

You!

Managing Company Resources and Assets

It is your responsibility to preserve BrightSpring's assets including employee time, materials, supplies, equipment and information. Such assets are to be maintained for business-related purposes. BrightSpring maintains a system of internal controls to reasonably ensure that company assets are properly used for business purposes. As a general rule, you may not use any BrightSpring asset for your own personal use without your supervisor's permission. Any community or charitable use of company resources and/or assets must be approved in advance by your supervisor.

You may not use BrightSpring's resources or assets for your own personal financial gain. You are expected to manage and protect the assets of our company and of the people that we support. Any improper financial gain to you through misconduct involving BrightSpring or the property of individuals we support is strictly prohibited. Misconduct includes the outright theft of



property, stealing or misuse of money belonging to BrightSpring or the people that we support. Misuse of BrightSpring's assets and those of the people we support is a serious violation of company policy and will result in corrective action, up to and including termination of employment and possible legal action.

Purchase Card Usage

Purchase Card (PCard) usage should be limited to petty cash type transactions. Any exceptions to this policy must be approved by a BrightSpring Senior Vice President. PCards may not be used to bypass the normal approval and purchasing process.

Because PCards are used just like cash, the same standards and precautions that are followed to protect petty cash should be used for PCard purchases. Any employee who has been approved to use a PCard is responsible for using it properly and responsibly, according to appropriate company policy for its use.

Employees who abuse the PCard system or use the PCard for nonbusiness purposes may lose these privileges and be subject to corrective action, up to and including termination of employment.

Billing for Services

BrightSpring is committed to ensuring that all billing and reimbursement practices comply with federal and state laws, regulations, guidelines and policies. All bills must be accurate and timely and reflect current rates. This refers to all funding sources such as Medicaid, Medicare, U.S. Department of Labor and other government-funded contracts as well as private insurance and private payers.

In situations where the documentation that services were provided is the employee's signed time sheet, the employee must be aware that the time sheet becomes a billing document and it must be completed accurately and completely. Any falsification of hours or information on a time sheet may translate into incorrect billing and reimbursement. (Also see section: Reporting of Time Worked and Services Provided.)

BrightSpring prohibits any employee from knowingly or intentionally causing or submitting billings that are false. Any employee who knowingly falsifies billing documentation will be subject to corrective action, up to and including termination of employment.

BrightSpring implements oversight systems to ensure that billing accurately reflects only services properly provided. Complete and accurate documentation of services provided is critical for accurate billing to occur. Any suspected violations are to be referred to your regional/divisional management AND the Compliance Department.

Cost Reports

Much of our business involves reimbursement under government programs that require the submission of certain reports of our costs of operation. We will comply with state and/or federal regulations relating to all cost reports. These regulations define what costs are allowable and how to claim reimbursement for the cost of services provided to the people we support. Given the complexity of issues related to the completion and submission of cost reports, all questions or concerns regarding cost reports must be communicated to our Reimbursement Department.

Accuracy, Retention and Disposal of Documents and Records

Records include paper documents, such as letters and memos; computer-based information such as email, computer files on hard drive, USB, cloud or any other storage device; and, any other medium that contains information about BrightSpring, our business activities or the people we support.

All records must be retained in accordance with the applicable law and record retention policies specific to your operation or department. Record destruction may occur only according to BrightSpring policy. Any employee who falsifies or improperly destroys records will be subject to corrective action, up to and including termination of employment.



Identifying a Compliance Issue



When identifying a compliance issue, you should ask yourself the following questions:

- Is the action legal?
- Is the action ethical?
- Is the action supported by BrightSpring's Code of Conduct?
- Is the action supported by Company policy?
- Is it the "right thing to do"?

If your answer to these questions indicate a possible violation of state, local or federal regulations of Company policy you must report the issue.

See It ~~ Say It!

BrightSpring's Compliance Action Line: 866.293.3863

BrightSpring's Compliance & Ethics Department Contact Number

800.866.0860

or

502.394.2100 (If in Louisville)

To report compliance concerns at our Canadian or Puerto Rico operations, use our web-based reporting:

<https://secure.ethicspoint.com/domain/media/en/gui/55619/index.html>

*9901 Linn Station Road
Louisville, Kentucky 40223
502.394.2100
www.BrightSpringHealth.com*

ACTION LINE: 866.293.3863



Monterey County

Item No.34

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-498

September 27, 2022

Introduced: 9/8/2022

Current Status: General Government -
Consent

Version: 1

Matter Type: BoS Agreement

- a. Approve and authorize the Chief Information Officer to execute retroactively September 1, 2022 an Amendment No. 1 to a non-standard License Agreement with American Tower, LLC for the Next Generation Radio System (NGEN) - Table Mountain site extending the agreement for an additional five (5) years to August 31, 2027; and
- b. Accept non-standard provisions as recommended by the Chief Information Officer; and
- c. Authorize the Chief Information Officer or designee to execute up to two (2) future amendments, subject to County Counsel review, to extend the non-standard License Agreement term for five (5) additional years per amendment and to allow for a four percent (4%) annual increase per year provided the amendments do not significantly change the scope of work and do not alter the non-standard terms of the License Agreement.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Chief Information Officer to execute retroactively to September 1, 2022 an Amendment No. 1 to a non-standard License Agreement with American Tower, LLC for the Next Generation Radio System (NGEN) - Table Mountain site extending the agreement for an additional five (5) years to August 31, 2027; and
- b. Accept non-standard provisions as recommended by the Chief Information Officer; and
- c. Authorize the Chief Information Officer or designee to execute up to two (2) future amendments, subject to County Counsel review, to extend the non-standard License Agreement term for five (5) additional years per amendment and to allow for a four percent (4%) annual increase per year provided the amendments do not significantly change the scope of work and do not alter the non-standard terms of the License Agreement.

SUMMARY:

Monterey County Information Technology Department, recommends extending the License Agreement with American Tower, LLC for co-occupancy at the Table Mountain radio communications site, located at Turkey Flat Road, San Miguel, CA. This License Agreement provides for the use of a tower and shelter at the Table Mountain radio site to provide public safety radio and microwave communications for south Monterey County. The analog radio system provides analog coverage for law, fire, and ambulance services.

DISCUSSION:

The New Generation Radio (NGEN) System is a public safety radio communications system project. The Table Mountain site has two-way analog conventional radio systems that work in conjunction with

the digital radio system. In addition, microwave systems have been installed to seamlessly and reliably connect the Table Mountain site to the central hub for the radio system. This site is a part of the analog portion of the county-wide NGEN Public Safety radio system project and the county-wide microwave backhaul system.

The NGEN - Table Mountain site is a vital hub for radio coverage for our first responders. This agreement was managed through the Emergency Communications Department of the County of Monterey but will reside with Information Technology Department (ITD) going forward, as all radio lease agreements are to be managed by ITD.

ITD is requesting that there be up to two (2) future amendments, to extend the non-standard License Agreement term for five (5) additional years per amendment. This Lease agreement may be canceled by either party at any time upon providing one hundred and eighty (180) days' advance written notice to the other party.

This Amendment No. 1 to the non-standard Site License Agreement with American Tower, LLC provides public safety and microwave communications for Monterey County. There is no increased amount for payment. The Chief Information Officer recommends entering into this Agreement to provide analog two-way radio coverage for the County's first responders, law, fire, and ambulance services.

OTHER AGENCY INVOLVEMENT:

County Counsel and Auditor Controller's office has reviewed this agreement and has approved as to form.

FINANCING:

The funds have been included in the FY22-23 Approved Budget for the Information Technology Department, ITD 1930, Appropriations Unit INF002. Transactions relating to future fiscal years will be included in each respective Recommended Budget based upon the anticipated utilization of the services.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This radio site will provide critical radio communications to the south county portion of Monterey County and enhance public safety for all first responders and the community.

☐ Economic Development
☐ Administration
☐ Health & Human Services
☒ Infrastructure
☒ Public Safety

Prepared by: Teresa Meister, Management Analyst I, 759-6938

Approved by:

Eric A. Chatham, Chief Information Officer, 759-6920

Attachments:

Original Agreement

Amendment No. 1



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-498

September 27, 2022

Introduced: 9/8/2022

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Approve and authorize the Chief Information Officer to execute retroactively September 1, 2022 an Amendment No. 1 to a non-standard License Agreement with American Tower, LLC for the Next Generation Radio System (NGEN) - Table Mountain site extending the agreement for an additional five (5) years to August 31, 2027; and
- b. Accept non-standard provisions as recommended by the Chief Information Officer; and
- c. Authorize the Chief Information Officer or designee to execute up to two (2) future amendments, subject to County Counsel review, to extend the non-standard License Agreement term for five (5) additional years per amendment and to allow for a four percent (4%) annual increase per year provided the amendments do not significantly change the scope of work and do not alter the non-standard terms of the License Agreement.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Chief Information Officer to execute retroactively to September 1, 2022 an Amendment No. 1 to a non-standard License Agreement with American Tower, LLC for the Next Generation Radio System (NGEN) - Table Mountain site extending the agreement for an additional five (5) years to August 31, 2027; and
- b. Accept non-standard provisions as recommended by the Chief Information Officer; and
- c. Authorize the Chief Information Officer or designee to execute up to two (2) future amendments, subject to County Counsel review, to extend the non-standard License Agreement term for five (5) additional years per amendment and to allow for a four percent (4%) annual increase per year provided the amendments do not significantly change the scope of work and do not alter the non-standard terms of the License Agreement.

SUMMARY:

Monterey County Information Technology Department, recommends extending the License Agreement with American Tower, LLC for co-occupancy at the Table Mountain radio communications site, located at Turkey Flat Road, San Miguel, CA. This License Agreement provides for the use of a tower and shelter at the Table Mountain radio site to provide public safety radio and microwave communications for south Monterey County. The analog radio system provides analog coverage for law, fire, and ambulance services.

DISCUSSION:

The New Generation Radio (NGEN) System is a public safety radio communications system project. The Table Mountain site has two-way analog conventional radio systems that work in conjunction with the digital radio system. In addition, microwave systems have been installed to seamlessly and reliably

Legistar File Number: A 22-498

connect the Table Mountain site to the central hub for the radio system. This site is a part of the analog portion of the county-wide NGEN Public Safety radio system project and the county-wide microwave backhaul system.

The NGEN - Table Mountain site is a vital hub for radio coverage for our first responders. This agreement was managed through the Emergency Communications Department of the County of Monterey but will reside with Information Technology Department (ITD) going forward, as all radio lease agreements are to be managed by ITD.

ITD is requesting that there be up to two (2) future amendments, to extend the non-standard License Agreement term for five (5) additional years per amendment. This Lease agreement may be canceled by either party at any time upon providing one hundred and eighty (180) days' advance written notice to the other party.

This Amendment No. 1 to the non-standard Site License Agreement with American Tower, LLC provides public safety and microwave communications for Monterey County. There is no increased amount for payment. The Chief Information Officer recommends entering into this Agreement to provide analog two-way radio coverage for the County's first responders, law, fire, and ambulance services.

OTHER AGENCY INVOLVEMENT:

County Counsel and Auditor Controller's office has reviewed this agreement and has approved as to form.

FINANCING:

The funds have been included in the FY22-23 Approved Budget for the Information Technology Department, ITD 1930, Appropriations Unit INF002. Transactions relating to future fiscal years will be included in each respective Recommended Budget based upon the anticipated utilization of the services.

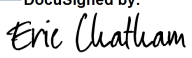
BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This radio site will provide critical radio communications to the south county portion of Monterey County and enhance public safety for all first responders and the community.

☐ Economic Development
☐ Administration
☐ Health & Human Services
☒ Infrastructure
☒ Public Safety

Prepared by: Teresa Meister, Management Analyst I, 759-6938

Approved by:

DocuSigned by:

 Date: 9/14/2022 | 11:44 AM PDT
 747D862C78D04AE...
 Eric A. Chatham, Chief Information Officer, 759-6920

Legistar File Number: A 22-498

Attachments:

Original Agreement

Amendment No. 1

LICENSE AGREEMENT

ATC Contract No: _____

This LICENSE AGREEMENT ("**Agreement**") is entered into as of the latter signature date hereof ("**Effective Date**") by and between American Towers LLC, a Delaware limited liability company, with a place of business at 10 Presidential Way, Woburn, MA 01801 ("**Licensor**") and the County of Monterey, a California political subdivision of the State of California, with a place of business at 1590 Moffett Street, Salinas, CA 93905 ("**Licensee**").

I. TOWER FACILITY INFORMATION:

Site Name: TABLE MOUNTAIN CA1-

Site Number: 1021

Address and/or location of Tower Facility: Turkey Flat Road, South side of Table Mtn, SAN MIGUEL, CA, 93451-9773

Tower Facility Coordinates: Lat. 35-55-39.54 N Long. 120-22-50.940012 W

II. NOTICE & EMERGENCY CONTACTS:

- Licensee's local emergency contact (name and number): Chuck Brooks, 831-796-1364.
- Licensor's local emergency contact: Network Operations Communications Center (800) 830-3365.
- Notices to Licensee shall be sent to Licensee's address above to the attention of Contracts Manager.
- Notices to Licensor shall be sent to Licensor's address above to the attention of Contracts Manager.
- Licensor's Remittance Address: American Tower Corporation, Lockbox 7501, P.O. Box 7247, Philadelphia, PA 19170-7501; all payments shall include a reference to the Site Name and Site Number as identified above in Section I.

III. PERMITTED USE OF TOWER FACILITY BY LICENSEE:

Transmitting and Receiving frequencies: See Exhibit A for specific frequencies.

Antenna mount height on tower: See Exhibit A for specific location.

All other permitted uses of the Tower Facility including Licensee's Approved Equipment, and the Licensed Space are further described in Section 4 of this Agreement and Exhibits A and B attached hereto.

IV. FEES & TERM:

Monthly License Fee: One Thousand Three Hundred and 00/100 Dollars (\$1,300.00), increased by the Annual Escalator on the first anniversary of the Commencement Date of this Agreement and each anniversary of the Commencement Date thereafter during the Term (as defined in Appendix I).

Annual Escalator: Three percent (3%).

Application Fee: N/A.

Relocation Application Fee: N/A.

Site Inspection Fee: \$500.00, increased annually on each anniversary of the Commencement Date of this Agreement by a percentage rate increase equal to the Annual Escalator.

Initial Term: A period of five (5) years beginning on the Commencement Date. The "**Commencement Date**" shall be the earlier of: (i) the date of Licensor's issuance of a NTP or (ii) September 1, 2017.

Renewal Terms: 3 additional periods of 5 years each.

Connection Fee (as described in Subsection 5(b)): N/A

Electricity for operation of Approved Equipment is to be provided by (check one):

- ☐ Licensors, with the cost of such electricity to be paid by Licensee at the initial rate of \$_____ per month ("Utility Fee") subject to adjustment pursuant to Subsection 5(b), OR
☒ Licensee, at its sole expense.

V. TERMS & CONDITIONS:

The attached terms and conditions are incorporated herein by this reference.

VI. OTHER PROVISIONS:

Other provisions: (check one): ☐ None ☒ As listed below

A. Notwithstanding anything to the contrary in this Agreement, the offer expressed to Licensee in this Agreement shall automatically become null and void with no further obligation by either Party hereto if a structural analysis of the Tower Facility completed after the execution of this Agreement by Licensors but before the commencement of the installation of Licensee's Approved Equipment indicates that the Tower Facility is not suitable for Licensee's Approved Equipment unless Licensors and Licensee mutually agree that structural modifications or repairs shall be made to the Tower Facility on mutually agreeable terms.

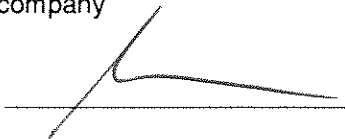
B. So long as Licensee shall elect to self-insure as provided in and subject to the provisions of Item B of Appendix II, only Licensee's contractors and subcontractors maintaining the required insurance with a private third-party insurer (and no employee or other personnel of Licensee or any other self-insured person or entity) shall be permitted to access or climb the Tower.

[Signatures appear on next page]

IN WITNESS WHEREOF, each Party in consideration of the mutual covenants contained herein, and for other good and valuable consideration, intending to be legally bound, has caused this Agreement to be executed by its duly authorized representative as of the day and year written below; *provided, however*, that this Agreement shall not become effective as to either Party until executed by both Parties.

LICENSOR

American Towers LLC, a Delaware limited liability company

By: 

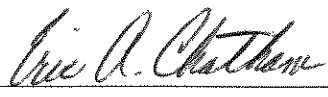
Print Name: Margaret Robinson

Its: Senior Counsel

Date: 7/27/17

LICENSEE


County of Monterey, a California political subdivision of the State of California

By: 

Print Name: Eric A. Chatham

Its: Director of Information Technology

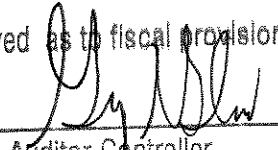
Date: 9/1/2017

APPROVED AS TO FORM

DEPUTY COUNTY COUNSEL
COUNTY OF MONTEREY

Rebecca M. Cenicer

August 4, 2017

Reviewed as to fiscal provisions


Auditor-Controller
County of Monterey

8-7-17

TERMS AND CONDITIONS

1. DEFINITIONS.

Capitalized terms defined in the body of this Agreement are indexed by location in Appendix I attached hereto. Capitalized terms used in Agreement but not defined herein are defined in Appendix I.

2. GRANT OF LICENSE.

Subject to the terms of this Agreement, Licensor hereby grants Licensee a non-exclusive license to install, maintain and operate the Approved Equipment at the Licensed Space. All Approved Equipment shall be and remain Licensee's personal property throughout the Term of this Agreement. Licensor shall maintain the Tower Facility in good order and repair, wear and tear, damage by fire, the elements or other casualty excepted. In no event shall Licensee's license as granted herein include rights to use the air space above the Approved Equipment, and Licensor reserves the right to install, construct and/or operate additional improvements or equipment of Licensor or others above Licensee's Approved Equipment, including Licensee's shelter (commonly referred to as "stacking"), provided that such additional improvements or equipment do not materially and adversely interfere with the access to or operation of the Approved Equipment, including Licensee's shelter. Licensee is not required to utilize a stackable shelter, provided that, if Licensee opts to install a shelter that is not stackable and if Licensor receives an offer to license the air space above Licensee's non-stackable shelter by a proposed subsequent user, Licensor may, at its election, upon thirty (30) days' prior written notice require Licensee to replace such non-stackable shelter with a stackable shelter of a comparable size, provided that the proposed subsequent user agrees in writing to be wholly responsible for the cost of Licensee's shelter replacement. Subject to any limitations contained in the Ground Lease, Licensor grants Licensee a right of access to the Tower Facility 24 hours per day, 7 days per week during the Term. Licensor grants Licensee a designated location for the installation of Licensee's utilities over, under or across the Tower Facility (collectively, "**Easement**"). Licensee shall be responsible for any and all Damage or loss that results from the installation of any cables or utility wires by Licensee or any company or person retained by Licensee (including a public utility company), including, without limitation, any damage or loss that results from the accidental cutting of utility wires or cables of any other party operating at the Tower Facility. Licensor shall provide Licensee with one set of keys and/or codes to access the Tower Facility. Licensee shall be responsible for ensuring that Licensor has, at all times, a complete and accurate written list of all employees and agents of Licensee who have been provided the keys or access codes to the Tower Facility. Licensor shall have the right to continue to occupy the Tower Facility and to grant rights to others to the Tower Facility in its sole discretion. Licensee shall have no property rights or interest in the Tower Facility or the Easement by virtue of this Agreement. If Licensor's right to license space on the Tower Facility to Licensee is subject to a right of first refusal for the benefit of a third party and if such third party exercises its right of first refusal prior to the Commencement Date, Licensor may terminate this Agreement upon written notice to Licensee.

3. EXHIBITS.

Within forty-five (45) days following the Commencement Date, Licensee shall provide Licensor with as-built or construction drawings showing the Approved Equipment as installed in both hard copy and electronic form ("**Construction Drawings**"); such Construction Drawings shall include the location of any shelters, cabinets, grounding rings, cables, and utility lines associated with Licensee's use of the Tower Facility. Upon receipt, Licensor shall attach the Construction Drawings as Exhibit C hereto. In the event that Licensee fails to deliver the Construction Drawings as required by this Section, Licensor may cause such Construction Drawings to be prepared on behalf of Licensee and Licensor shall assess a fee for such Construction Drawings in an amount equal to one hundred twenty percent (120%) of the actual cost of obtaining the Construction Drawings including in-house labor, which upon invoicing shall become immediately due and payable by Licensee. In the event of inconsistency or discrepancy between (a) Exhibit A and Exhibit B hereto, Exhibit A shall govern, and (b) between Exhibit A (with respect to Approved Equipment and antenna locations) together with Exhibit B (with respect to Ground Space installation locations) and Exhibit C hereto, Exhibits A and B shall govern, notwithstanding any approval

or signature by Licensor or its agents. Licensee hereby acknowledges and agrees that installation of the Approved Equipment must be in strict accordance with the approved Construction Drawings and Exhibits A and B. Notwithstanding the forgoing, Licensee shall not infer nor shall acceptance of the Construction Drawings by Licensor be deemed to be a representation by Licensor that (i) such Construction Drawings or the plans and specifications described therein are in compliance with federal, state or local laws, ordinances, rules or regulations, (ii) that such installation shall not cause impermissible or unlawful interference, or (iii) that such installation is consistent with Licensee's permitted installation as specifically set forth in Exhibits A and B hereto.

4. USE.

Subject to the terms of any Ground Lease, Licensee shall be permitted the non-exclusive right to install, maintain, operate, service, modify and/or replace its Approved Equipment at the Licensed Space, which Approved Equipment shall be utilized for the transmission and reception of wireless voice and data communications signals (such transmission and reception to be solely within the Permitted Frequencies, and, if the Permitted Frequencies include licensed spectrum, within the spectrum licensed to Licensee by the FCC). If as of the Effective Date, Licensee's wireless business consists of a one-way network which requires only that signals be transmitted from the Tower Facility, then notwithstanding the foregoing sentence, Licensee's use of the Tower Facility under this Agreement shall be limited to the transmission of wireless voice and data communications signals from the Tower Facility. Licensee's permitted use with respect to the Licensed Space shall be limited solely to that enumerated in this Section, and, except pursuant to a separate agreement with Licensor, no person or entity other than Licensee shall have the right to install, maintain or operate its equipment or transmit or receive communications at, or otherwise use, the Licensed Space.

5. LICENSE FEES; TAXES; ASSESSMENTS.

(a) **Monthly License Fee.** The Monthly License Fee as adjusted by the Annual Escalator, shall be payable in advance on the first day of each calendar month during the Term beginning upon the Commencement Date. If the Commencement Date is not the first day of a calendar month, the Monthly License Fee for any partial month shall be prorated on a daily basis.

(b) **Utilities.** All utility services installed on the Tower Facility for the use or benefit of Licensee shall be made at the sole cost and expense of Licensee and shall be separately metered from Licensor's utilities. Licensee shall be solely responsible for extending utilities to the Tower Facility as necessary for the operation of the Approved Equipment and for the payment of utility charges including connection charges and security deposits incurred by Licensee. Licensee shall obtain and pay the cost of telephone connections, the installation of which shall be in compliance with the procedures for installation and maintenance of Approved Equipment set forth herein.

(c) **Taxes.**

(i) **Property Taxes.** Licensee shall be responsible for the reporting and payment when due of any tax directly related to Licensee's ownership or operation of the Approved Equipment and such reporting and payment shall be made directly to the appropriate tax authorities. Licensee shall reimburse Licensor in full for any taxes assessed against Licensor but attributed to the Approved Equipment within thirty (30) days of Licensor's request for such reimbursement. Licensor shall pay all property taxes directly assessed against Licensor's property or for which Licensor is obligated to pay under the Ground Lease, provided, however, Licensee shall reimburse Licensee's pro rata share of such taxes. Licensee's pro rata share shall be determined by dividing such taxes evenly among all users Licensor has permitted to utilize any portion of the Tower Facility. Licensee shall reimburse Licensor for such taxes within thirty (30) days of Licensor's request for such reimbursement.

(ii) **Sales; Use and Other Taxes.** Licensor shall be responsible for billing, collecting, reporting, and remitting sales, use and other taxes directly related to any Monthly License Fee or other payments received pursuant to this Agreement. Licensee shall be responsible for reimbursing

Licensor for all such sales, use and other taxes billed related to any payments received pursuant to this Agreement. Licensor shall add to the Monthly License Fee or any other payment then due and payable any associated sales, use or other tax, which shall be paid by Licensee at the same time and in the same manner as the Monthly License Fee or other payment due and payable under this Agreement.

(d) **Federal Use Fees & Assessments.** In the event that a particular Licensed Space is at a Tower Facility located on property which is owned by the Bureau of Land Management ("BLM") or the United States Forest Service ("USFS"), Licensee shall reimburse Licensor for any and all fees or assessments attributable to this Agreement or Licensee's use of the Licensed Space paid by Licensor to the BLM or USFS related to such Tower Facility within thirty (30) days of Licensor's request for such reimbursement.

(e) **Restrictions on Reimbursement.** Solely for the purposes of determining Licensee's portion of such taxes, fees, assessments or similar expenses as contemplated in this Section 5 or anywhere else in this Agreement, if any such amounts are determined in whole or in part on the income or profits (aside from gross revenues) of any person or entity, Licensor and Licensee shall agree on a fixed amount (subject to the Annual Escalator, which shall be applied in the same manner as it is applied to the Monthly License Fee), that shall be treated as such tax, fee, assessment or similar expense in lieu of the actual amount, which agreed to amount shall be set forth in an amendment to this Agreement.

(f) **Payment Address.** All payments due under this Agreement shall be made to Licensor at Licensor's Remittance Address shown on page 1 of this Agreement or such other address as Licensor may notify Licensee of in writing.

(g) **No Set-Off.** All payments due under this Agreement shall be due without set-off, notice, counterclaim or demand from Licensor to Licensee.

(h) **Effect of Partial Payment.** No endorsement or statement on any check or letter accompanying a check for payment of any monies due and payable under the terms of this Agreement shall be deemed an accord and satisfaction, and Licensor may accept such check or payment without prejudice to its right to recover the balance of such monies or to pursue any other remedy provided by law or in this Agreement.

6. TERM.

(a) **Initial Term.** The Initial Term of this Agreement shall be as specified on page 1.

(b) **Renewal Term.** The Term of this Agreement may be extended for each of the Renewal Terms as specified on page 1 of this Agreement, provided that at the time of each such renewal, (i) the Ground Lease remains in effect and has not expired or been terminated, (ii) Licensee is not in default hereunder and no condition exists which if left uncured would with the passage of time or the giving of notice result in a default by Licensee hereunder and (iii) the original Licensee identified on page 1 of this Agreement has not assigned, sublicensed, subleased or otherwise transferred any of its rights hereunder. Provided that the foregoing conditions are satisfied, this Agreement shall automatically renew for each successive Renewal Term unless either Party notifies the other in writing of its intention not to renew this Agreement at least one hundred eighty (180) days prior to the end of the then existing Term.

(c) **Holdover Term.** If Licensee fails to remove the Approved Equipment at the expiration of the Term, such failure shall be deemed to extend the Term of this Agreement on a month-to-month basis under the same terms and conditions herein except that (i) a monthly license fee shall be due on or before the first day of every calendar month during such month-to-month term in an amount equal to one hundred fifty percent (150%) of the Monthly License Fee in effect for the last month of the Term prior to the commencement of such month-to-month term ("**Holdover Fee**"), such Holdover Fee to escalate annually on the anniversary of the Commencement Date by an amount equal to six percent (6%) of the Holdover Fee in effect for the month immediately prior to the month in which such escalation takes place,

and (ii) the month-to-month extension shall be terminable upon fifteen (15) days' prior written notice from either Licensor or Licensee to the other; provided, however, nothing contained herein shall grant Licensee the unilateral right to extend the Term of this Agreement after the expiration of the Term. In addition to the monthly license fee payable to Licensor in the event of an extension under this Subsection 6(c), Licensee agrees to indemnify and hold Licensor harmless from any Damages arising out of or in connection with the extension, the operation of the Approved Equipment at the Tower Facility and Licensee's failure to perform all of its obligations under this Agreement at the termination or earlier expiration of this Agreement.

7. COMMON EXPENSES.

Licensee shall reimburse Licensor for Licensee's pro-rata share of all common expenses (the "**Common Expenses**") incurred by Licensor in the installation, operation, maintenance and repair of the Tower Facility, including, but not limited to, the construction, maintenance and repair of a common septic system and field, insurance, common utilities and any and all other costs of operating and maintaining the Tower Facility. Notwithstanding the foregoing, the cost and expenses associated with any Damage which is directly attributable to the acts or omissions of Licensee or Licensee's contractors shall be borne solely by Licensee. Licensee shall not be required to pay any share of costs or expenses incurred to replace the Tower. In the event that Licensee also licenses space within a building or shelter owned by Licensor on the Tower Facility, Licensee shall also reimburse Licensor for its pro-rata share of all Common Expenses incurred for the operation, maintenance, repair and replacement associated with such building or shelter, including, without limitation, the physical structure of the building, HVAC system, and common utility expenses. In the event that Licensee is connected to a generator or back-up power supply owned by Licensor, Licensee shall also reimburse Licensor for its pro-rata share of all expenses incurred for the operation, maintenance, repair and replacement associated with such generator, including, without limitation, fuel expenses. For the purposes of this Section, a "pro-rata share" of costs and expenses shall be determined based on the number of licensees using the Tower Facility (or with respect to a shared shelter or building, the number of licensees using Licensor's shelter or building) on the first day of the month in which an invoice is mailed to Licensee. Licensee shall reimburse Licensor for Common Expenses within thirty (30) days following receipt of an invoice from Licensor.

8. SITE INSPECTION.

Concurrent with Licensee's delivery of a fully executed Agreement to Licensor, and before the date of any subsequent modifications to or installation of additional Approved Equipment, Licensee shall pay Licensor the Site Inspection Fee as defined on page 1 of this Agreement. Licensee acknowledges that any site inspection performed by Licensor of Licensee's installation is for the sole purpose and benefit of Licensor and its affiliates, and Licensee shall not infer from or rely on any inspection by Licensor as assuring Licensee's installation complies with any Applicable Laws, that the installation was performed in a good, workmanlike manner or that such installation will not cause impermissible or unlawful interference.

9. LABELING.

Licensee shall identify its Approved Equipment, including its equipment cabinets and coaxial cable (at the top and bottom of the Tower) (unless such cabinet is located in a building or cabinet owned by Licensee) by labels with Licensee's name, contact phone number and date of installation. In the event that Licensee fails to comply with this provision and fails to cure such deficiency within ten (10) days of Licensor's written notice of such failure, Licensor may, but is not obligated to, in addition to any other rights it may have hereunder, label the Approved Equipment and assess against Licensee a fee of \$1,500 ("**Labeling Fee**") which shall be payable to Licensor upon receipt of an invoice therefor. Licensor shall not be responsible to Licensee for any expenses or Damages incurred by Licensee arising from the interruption of Licensee's service caused by Licensor if Licensor is unable to identify the Approved Equipment as belonging to Licensee as a result of Licensee's failure to label such Approved Equipment.

10. IMPROVEMENTS BY LICENSEE.

(a) **Installation and Approved Vendors.** Prior to the commencement of any Work on the Tower Facility, Licensee shall submit to Licensor for review and approval, which approval shall not be unreasonably withheld, detailed plans and specifications accurately describing all aspects of the proposed Work. Licensee shall provide notice to Licensor no less than 5 days prior to the date upon which Licensee intends to commence Work at the Tower Facility, together with a construction schedule, so Licensor has the opportunity to be present during any such Work. Licensee shall not commence Work on the Tower Facility until Licensor issues to Licensee a NTP. Licensor shall issue a NTP only upon request from Licensee and receipt of the following complete and accurate documentation: (1) evidence that any contingencies set forth in the approval of Licensee's Application have been satisfied; (2) evidence that Licensee has obtained all required governmental approvals including, but not limited to, zoning approvals, building permits, and any applicable environmental approvals including copies of the same; (3) a copy of the plans and specifications that have been approved by Licensor for the proposed equipment installation; (4) evidence that any party, other than Licensor but including Licensee, that will be performing the Work are on Licensor's approved vendor list, with valid and current worker's compensation and general liability insurance certificates on file with Licensor naming Licensor as an additional insured and which otherwise satisfy the insurance coverage requirements set forth in Subsection 15(d) of this Agreement; and (5) a construction schedule. In no event will a NTP be issued prior to the payment by Licensee of a Relocation Application Fee when required pursuant to Subsection 10(c) of this Agreement. Notwithstanding anything to the contrary in this Agreement, Licensor reserves the right, in its sole discretion, to refuse to permit any person or company to climb the Tower.

(b) **Structural Analysis/Interference Analysis.** Prior to the commencement of any Work on the Tower Facility by or for the benefit of Licensee, Licensor may, in its reasonable discretion, perform or cause to be performed a structural analysis or require a professional engineer's certified letter to determine the availability of capacity at the Tower Facility for the installation or modification of any Approved Equipment and/or additional equipment at the Licensed Space by Licensee. Licensee agrees to remit payment to Licensor for all reasonable costs and expenses incurred by Licensor for such structural analysis or professional engineer's certified letter ("**Structural Analysis Fee**") within thirty (30) days following receipt of an invoice from Licensor. The foregoing charge shall be at Licensor's prevailing rates for the performance of same or the amount Licensor's vendor is then charging Licensor, as applicable. In the event a structural analysis is performed after the execution of this Agreement but prior to the initial installation of the Approved Equipment, and such analysis indicates that the existing Tower cannot accommodate the proposed installation of Licensee's Approved Equipment thereon, Licensor shall notify Licensee that modification of the Tower is required and inform Licensee of the fee Licensor will charge Licensee to complete such modification (which fee shall be a reasonable estimate of Licensor's actual cost of making such modifications). Such modification shall become part of the Tower Facility and be Licensor's sole property. If Licensee elects not to pay such fee, and Licensee and Licensor do not otherwise reach an agreement regarding the costs of such modification, Licensee may terminate this Agreement upon written notice to Licensor. Prior to the commencement of any initial or subsequent construction or installation on the Tower Facility by or for the benefit of Licensee and/or the modification of Licensee's Permitted Frequencies propagated from the Licensed Space, Licensor may elect to perform a shared site interference study ("**SSIS**") and Licensee shall pay Licensor a fee of \$1,600.00 per study ("**SSIS Fee**"), as adjusted annually on the anniversary of the Commencement Date by a percentage rate equal to the Annual Escalator. This fee shall be payable at the time Licensee pays the Relocation Application Fee where required pursuant to Subsection 10(c) of this Agreement, or immediately upon receipt of notice from Licensor that Licensor has determined that a SSIS is required. In the event a SSIS is performed after the execution of this Agreement by Licensor but prior to the installation of Licensee's Approved Equipment, and such SSIS indicates that the proposed installation of Licensee's Approved Equipment on the Tower is acceptable, such an indication in no way relieves Licensee of its obligations under Section 11 herein.

(c) **Equipment; Relocation, Modification, Removal.** Licensor hereby grants Licensee reasonable access to the Licensed Space for the purpose of installing and maintaining the Approved Equipment and its appurtenances. Except as otherwise provided, Licensee shall be responsible for all site Work to be done on the Licensed Space or the Easement pursuant to this Agreement. Licensee shall provide all materials and shall pay for all labor for the construction, installation, operation, maintenance

and repair of the Approved Equipment. Licensee shall not construct, install or operate any equipment or improvements on the Tower Facility other than those which are described on Exhibit A, alter the Permitted Frequencies, or alter the operation of the Approved Equipment. Licensee shall submit an Application, utilizing Licensors then current form, to request the right to replace or modify its Approved Equipment, alter the Permitted Frequencies or increase the Ground Space, which Application shall be accompanied by a Relocation Application Fee. Licensors shall evaluate for approval the feasibility of Licensee's request, which approval shall be in Licensors sole discretion. Licensee acknowledges that any such relocation or modification of the Approved Equipment may result in an increase in the Monthly License Fee. An amendment to this Agreement shall be prepared to reflect each addition or modification to Licensee's Approved Equipment to which Licensors has given its written consent and the resulting increase in the Monthly License Fee, if any. Licensee shall have the right to remove all Approved Equipment at Licensee's sole expense on or before the expiration or earlier termination of the License provided Licensee repairs any damage to the Tower Facility or the Tower caused by such removal. Within thirty (30) days of the expiration or termination of this Agreement for any reason, Licensee shall: (i) remove the Approved Equipment and any other property of Licensee at the Tower Facility at Licensee's sole risk, cost, and expense; (ii) deliver the Licensed Space in substantially the same and in as good a condition as received (ordinary wear and tear excepted); and (iii) repair any damage caused by the removal of the Approved Equipment within ten (10) days of the occurrence of such damage. If Licensee fails to timely pay the Holdover Fee or does not remove its Approved Equipment within thirty (30) days after the expiration or termination of this Agreement, (i) the Approved Equipment shall be deemed conclusively and absolutely abandoned by Licensee and anyone claiming by, through, or under Licensee except for Hazardous Materials and waste and Approved Equipment containing Hazardous Materials and waste; and (ii) Licensors shall have the right to remove the Approved Equipment at Licensee's sole expense and dispose of such Approved Equipment in any manner Licensors so elects, and Licensee shall reimburse Licensors for its expenses upon demand without off-set.

11. RF INTERFERENCE/ USER PRIORITY.

(a) **Definitions.** For purposes of this Section 11, the following capitalized terms shall have the meanings set forth herein:

(i) **Interference** includes any performance degradation, misinterpretation, or loss of information to a radio communications system caused by unwanted energy emissions, radiations, or inductions, but shall not include permissible interference as defined by the FCC, and in addition, with regard to Unlicensed Frequencies, congestion.

(ii) **Licensed Frequencies** are those certain channels or frequencies of the radio frequency spectrum that are licensed by the FCC in the geographic area where the Tower Facility is located.

(iii) A **Licensed User** is any user of the Tower Facility, including Licensee, which transmits and/or receives Licensed Frequencies at the Tower Facility, but only with respect to such Licensed Frequencies.

(iv) A **Priority User** is any Licensed User of the Tower Facility that holds a priority position in relationship to Licensee for protection from Interference, as determined in this Section 11, which status is subject to change as set forth herein.

(v) A **Subsequent User** is any user of the Tower Facility that holds a subordinate position in relationship to Licensee for protection from Interference, as determined in this Section 11, which status is subject to change as set forth herein.

(vi) **Unlicensed Frequencies** are those certain channels or frequencies of the radio frequency spectrum that are not licensed by the FCC and are available for use by the general public in the geographic area where the Tower Facility is located.

(vii) An **Unlicensed User** is any user of the Tower Facility, including Licensee, which transmits and/or receives Unlicensed Frequencies at the Tower Facility, but only with respect to such Unlicensed Frequencies.

(b) **Information.** Licensee shall cooperate with Licensor and with other lessees, licensees or occupants of the Tower Facility for purposes of avoiding Interference and/or investigating claims of Interference. Upon request, Licensee, within ten (10) days of Licensor's request, shall provide Licensor with a list of Licensee's transmit and receive frequencies and Approved Equipment specifications necessary to resolve or investigate claims of Interference.

(c) **Unlicensed Frequencies.** Notwithstanding any other provision contained herein, as among Licensor, Licensee and other users of the Tower or Tower Facility, (i) an Unlicensed User shall have no priority with respect to any other FCC Unlicensed Users with respect to Interference; and (ii) an Unlicensed User's rights and obligations with respect to such Interference shall be determined and governed by FCC Rules and Regulations and any other Applicable Law. Licensor expressly disclaims any and all warranties and accepts no responsibility for management, mediation, mitigation or resolution of Interference among FCC Unlicensed Users operating at the Tower Facility and shall have no liability therefor.

(d) **Licensed Frequencies.** Subject to FCC Rules and Regulations and other Applicable Law, the Parties acknowledge and agree that the accepted industry standard for priority protection from Interference between multiple Licensed Users has been based on the priority of occupancy of each user to another user of the Tower or Tower Facility, which priority has been based on the order of submittal of its collocation Application by each user of the Tower or Tower Facility. Should the application of FCC Rules and Regulations and other Applicable Law not resolve any claims of Interference consistent with Subsections 11(e), 11(f) and 11(g) below, as among Licensor, Licensee and other users of the Tower Facility, (i) each Licensed User's priority shall be maintained so long as the Licensed User does not change the equipment and/or frequency that it is entitled to use at the Tower Facility at the time of its initial occupancy; and (ii) Licensee acknowledges and agrees that if Licensee replaces its Approved Equipment or alters the radio frequency of the Approved Equipment to a frequency range other than as described on page 1 of this Agreement, Licensee will lose its priority position for protection from Interference with regard to Approved Equipment operating at the new frequency in its relationship to other Licensed Users which are in place as of the date Licensee replaces its Approved Equipment or alters its radio frequency, consistent with this Section 11.

(e) **Correction.**

(i) **Licensee.** Licensee agrees not to cause Interference with the operations of any other user of the Tower or Tower Facility and to comply with all other terms and provisions of this Section 11 imposed upon Licensee. If Licensor determines, in its reasonable discretion based on standard and accepted engineering practices, that Licensee's Approved Equipment is causing Interference to the installations of Licensor or a Priority User, Licensee shall, within 48 hours of notification from Licensor, take such actions as are necessary to mitigate or eliminate the Interference, with the exception of ceasing Licensee's operations. If Licensee cannot mitigate or eliminate such Interference within the 48 hour period, Licensor may file a complaint with the FCC (currently the FCC's Enforcement Bureau, Spectrum Enforcement Division) or if such other user of the Tower Facility which is subject to Interference from Licensee's Approved Equipment is a Priority User, then upon the request of such Priority User consistent with Licensor's contractual obligations owed to the Priority User, Licensor may require that Licensee turn off or power down its interfering Approved Equipment and only power up or use such Approved Equipment during off-peak hours specified by Licensor in order to test whether such Interference continues or has been satisfactorily eliminated. If Licensee is unable to resolve or eliminate, to the satisfaction of Licensor, such Interference within thirty (30) days from Licensee's initial notification thereof, Licensee will immediately remove or cease operations of the interfering Approved Equipment.

(ii) **Licensor.** Upon the request of Licensee, Licensor hereby covenants to take commercially reasonable efforts to prohibit a Subsequent User from causing Interference with the

operations of Licensee to the extent Licensee is a Priority User pursuant this Section 11. If Licensor determines, in its reasonable discretion based on standard and accepted engineering practices, that a Subsequent User's equipment is causing Interference to the installations of Licensee, upon Licensee's request, Licensor shall, within 48 hours of request, commence such actions as are necessary to mitigate or eliminate the Interference, with the exception of ceasing Subsequent User's operations.

(iii) **Government Users.** Notwithstanding the foregoing, if another user of the Tower or Tower Facility is a governmental entity, Licensor shall give such governmental entity written notice of the Interference within 5 Business Days of Licensor's determination that such action is reasonably necessary. Licensor shall have the right to give the governmental entity 5 Business Days, or more as specified in the governmental site or occupancy agreement or as required by Applicable Law, from the receipt of such notice prior to Licensor being required to take any actions required by this Subsection 11(e) to cure such Interference.

(f) **FCC Requirements Regarding Interference.** Nothing herein shall prejudice, limit or impair Licensee's rights under Applicable Law, including, but not limited to, FCC Rules and Regulations to redress any Interference independently of the terms of this Section 11. Notwithstanding anything herein to the contrary, the provisions set forth in this Section 11 shall be interpreted in a manner so as not to be inconsistent with Applicable Law, including, but not limited to, FCC Rules and Regulations and nothing herein relieves Licensee from complying with all Applicable Laws governing the propagation of radio frequencies and/or radio frequency interference. The Parties acknowledge that currently FCC Rules and Regulations govern the obligations of wireless telecommunication service providers with respect to the operation of equipment and use of frequencies. Consequently, the provisions set forth in this Section 11 are expressly subject to CFR, Title 47, including but not limited to Part 15, et seq, governing Radio Frequency Devices; Part 20, et seq, governing commercial mobile radio services; Part 24, et seq, governing personal communications services; and Part 90, et seq, governing private land mobile radio services. In addition, in accordance with good engineering practice and standard industry protocols, licensees employ a wide range of techniques and practices, including those involving the use of proper types of equipment as well those related to the adjustment of operating parameters, in a mutually cooperative effort to identify and mitigate sources of Interference. The obligation of Part 20 licensees, including, but not limited to, private paging, specialized mobile radio services, cellular radiotelephone service and personal communications services, to avoid Interference is set forth in 47 CFR Part 90, Subpart N – Operating Requirements, §90.403(e). Claims of Interference are ultimately cognizable before the FCC's Enforcement Bureau, Spectrum Enforcement Division. Licensee shall observe good engineering practice and standard industry protocols, applying such commercially reasonable techniques as constitute best practices among licensees, in the deployment of their frequencies and the operation of the Approved Equipment. If Licensee deploys its frequencies or operates the Approved Equipment in a manner which prevents any other user of the Tower or Tower Facility from decoding signal imbedded in their licensed frequencies such that the Spectrum Enforcement Division makes a determination that Licensee is the cause of the Interference and Licensee fails or refuses to mitigate or eliminate the Interference within the time and in the manner prescribed by the Spectrum Enforcement Division, Licensee shall be default of this Agreement and the remedies set forth in Section 22 shall apply.

(g) **Public Safety Interference.** As of the Commencement Date, Licensor and Licensee are aware of the publication of FCC Final Rule, Private Land Mobile Services; 800 MHz Public Safety Interference Proceeding, *Federal Register*: November 22, 2004 (Volume 69, Number 224), Rules and Regulations, Page 67823-67853 ("**Final Rule**"). Claims of Interference made by or against users which are public safety entities shall be in compliance with the Final Rule as and when effective, or otherwise in accordance with FCC Rules and Regulations.

(h) **AM Detuning.** The parties acknowledge that the FCC Rules and Regulations govern the obligations of Licensee with respect to the operation of the Approved Equipment. Consequently, the provisions set forth in this Agreement are expressly subject to the FCC Rules and Regulations, including, but not limited to 47 C.F.R. §§ 27.63, 22.371 and 73.1692. Licensee agrees, at Licensee's sole cost, to comply with the foregoing as well as any and all other FCC Rules, Regulations and public guidance relating to AM detuning as such provisions currently exist or are hereafter modified. Licensee shall be

fully responsible for any pre and/or post installation testing for AM interference at the Tower Facility and for the installation of any new detuning apparatus or the adjustment of any existing detuning apparatus that may be necessary to prevent adverse effects on the radiation pattern of any AM station caused by the installation of the Approved Equipment. Licensee shall provide Licensor with written proof of such compliance. In the event that Licensee determines that pre or post-installation testing for AM interference is not required at the Tower Facility, such a determination shall be at Licensee's sole risk. If Licensee or Licensor receives a complaint of interference from an AM broadcast station after the Approved Equipment is added to a Tower or a Tower is modified to accommodate Licensee, Licensee shall eliminate such interference within thirty (30) calendar days of the receipt of such complaint. Licensee's failure to eliminate such interference within such thirty (30) day period shall constitute a default under this Agreement and Licensor shall have the right to eliminate such interference at Licensee's expense. Licensee further agrees to indemnify Licensor in the event that Licensee's failure to comply with the FCC Rules and Regulations prior to installation/modification of the Approved Equipment results in any administrative investigation, proceeding or adjudication with respect to Licensor.

12. SITE RULES AND REGULATIONS.

Licensee agrees to comply with the reasonable rules and regulations established from time to time at the Tower Facility by Licensor, which may be modified by Licensor from time to time upon receipt by Licensee of such revised rules and regulations. Such rules and regulations will not unreasonably interfere with Licensee's use of the Licensed Space under this Agreement.

13. DESTRUCTION; CONDEMNATION.

(a) **Destruction.** If the Tower or other portions of the improvements at the Tower Facility owned by Licensor are destroyed or so damaged as to materially interfere with Licensee's use and benefits from the Licensed Space, Licensor or Licensee shall be entitled to elect to cancel and terminate this Agreement on the date of such casualty and any unearned Monthly License Fee paid in advance of such date shall be refunded by Licensor to Licensee within thirty (30) days of such termination date. Notwithstanding the foregoing, Licensor may elect, in its sole discretion, to restore the damaged improvements, in which case Licensee and Licensor shall remain bound to the terms of this Agreement but Licensee shall be entitled to an abatement of the Monthly License Fee during the loss of use. If the Tower is so damaged that reconstruction or repair cannot reasonably be undertaken without removing the Approved Equipment, then (i) Licensor may, upon giving written notice to Licensee, remove any of the Approved Equipment and interrupt the signal activity of Licensee, (ii) Licensee may, at Licensee's sole cost and expense, install temporary facilities pending such reconstruction or repair, provided such temporary facilities do not interfere with the construction, rebuilding or operation of the Tower, (iii) Licensor agrees to provide Licensee alternative space, if available, on the Tower or at the Tower Facility during such reconstruction/repair period and (iv) should Licensor not substantially restore or replace the Tower in a fashion sufficient to allow Licensee to resume operations thereon within 6 months of the date of casualty, provided that such 6 month period shall be automatically extended for so long as Licensor has commenced and diligently continues to restore or replace such Tower, and Licensee's operation has been materially disrupted for sixty (60) or more consecutive days, then Licensee, upon thirty (30) days' prior written notice to Licensor, may terminate this Agreement.

(b) **Condemnation.** If the whole or any substantial part of the Tower Facility shall be taken by any public authority under the power of eminent domain or in deed or conveyance in lieu of condemnation so as to materially interfere with Licensee's use thereof and benefits from the Licensed Space, then this Agreement shall terminate on the part so taken on the date of possession by such authority of that part, and Licensor or Licensee shall have the right to terminate this Agreement and any unearned Monthly License Fee paid in advance of such termination shall be refunded by Licensor to Licensee within thirty (30) days following such termination. Notwithstanding the foregoing, Licensor may elect to rebuild the Tower or other improvements affected by such condemnation at an alternate location or property owned, leased or managed by Licensor, in which case Licensee and Licensor shall remain bound hereby. Upon such relocation of the Tower or improvements, the Licensed Space shall be modified to include the new Tower or improvements and the property on which the same are located and

this Agreement shall be amended accordingly to clarify the rights of Licensor and Licensee with respect to the Licensed Space. Licensee agrees not to make a claim to the condemning authority for any condemnation award to the extent such claim shall diminish or affect the award made to Licensor with regard to such condemnation.

(c) **License Fee Abatement.** The Monthly License Fee with respect to the affected Tower Facility shall be abated during any period that the Tower has not been restored following an event described in Subsections (a) or (b) above so long as Licensee is unable to continue to operate from a temporary location at the Tower Facility during any period of restoration.

14. COMPLIANCE WITH LAWS.

Licensor shall be responsible for compliance with any marking and lighting requirements of the FAA and the FCC applicable to the Tower Facility, provided that if the requirement for compliance results from the presence of the Approved Equipment on the Tower, Licensee shall pay the costs and expenses therefor (including any lighting automated alarm system so required). Licensee has the responsibility of carrying out the terms of Licensee's FCC license with respect to tower light observation and notification to the FAA if those requirements imposed on Licensee are in excess of those required of Licensor. Notwithstanding anything to the contrary in this Agreement, Licensee shall at all times comply with all Applicable Laws and ordinances and all rules and regulations of municipal, state and federal governmental authorities relating to the installation, maintenance, location, use, operation, and removal of the Approved Equipment and other alterations or improvements authorized pursuant to the provisions of this Agreement.

15. INDEMNIFICATION; INSURANCE.

(a) **Mutual Indemnity.** Subject to the mutual waiver of subrogation set forth in Section 27, Licensee and Licensor each indemnifies the other against and holds the other harmless from any and all costs, demands, Damages, suits, expenses, or causes of action (including reasonable attorneys fees and court costs) which arise out of the use and/or occupancy of the Licensed Space by the Indemnifying Party. This indemnity does not apply to any Claims to the extent arising from the gross negligence or intentional misconduct of the Indemnified Party.

(b) **Limits on Indemnification.** Neither Party shall be responsible or liable to any of the foregoing Indemnified Parties for any Damages arising from any claim to the extent attributable to any acts or omissions of other licensees or users occupying the Tower Facility or for any structural or power failures or destruction or damage to the Tower Facility except to the extent caused by the sole, joint, or concurrent gross negligence or willful misconduct of such Party.

(c) **Survival.** The provisions of this Section 15 shall survive the expiration or earlier termination of this Agreement with respect to any events occurring on or before expiration or termination of same whether or not Claims relating thereto are asserted before or after such expiration or termination.

(d) **Insurance.** Licensor and Licensee shall keep in full force and effect, during the Term of this Agreement, insurance coverage in accordance with Appendix II attached hereto.

16. LIMITATION OF PARTIES' LIABILITY.

NEITHER LICENSOR NOR LICENSEE SHALL BE RESPONSIBLE FOR, AND HEREBY WAIVES ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES INCURRED RESULTING FROM (i) LICENSEE'S USE OR LICENSEE'S INABILITY TO USE THE TOWER FACILITY, OR (ii) DAMAGE TO THE OTHER'S EQUIPMENT. If Licensor shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Agreement or is charged with an indemnity obligation hereunder, and if Licensee shall, as a consequence thereof, recover a money judgment against Licensor (whether compensatory or punitive in nature), Licensee agrees that it shall look solely to Licensor's right, title and interest in and to the Tower Facility and the Tower for the collection of such

judgment, and Licensee further agrees that no other assets of Licensor shall be subject to levy, execution or other process for the satisfaction of Licensee's judgment, and that Licensor shall not be personally liable for any deficiency.

17. DISCLAIMER OF WARRANTY.

LICENSOR HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ASSOCIATED WITH THE TOWER FACILITY OR THE TOWER. LICENSEE HEREBY ACCEPTS THE TOWER FACILITY "AS IS, WHERE IS, WITH ALL FAULTS."

18. NOTICES.

All notices, demands, approvals, requests and other communications shall be in writing to such Party at the address listed in the introductory paragraph of this Agreement (and in each case, in the event of notice to Licensor, with a copy of such notice to American Towers LLC, 116 Huntington Avenue, Boston, MA 02116, Attention: General Counsel) or at such other address as such Party shall designate by notice to the other Party hereto in accordance with this Section 18 (the "**Notice Address**") and may be personally delivered; mailed, via United States certified mail, return receipt requested; or transmitted by overnight courier for next Business Day delivery, and, if not delivered personally, shall be deemed to be duly given or made 2 Business Days after deposit with the applicable carrier or courier. Notices will be deemed to have been given upon either receipt or rejection. Notwithstanding the foregoing, (i) any notice that is given by a Party may be given by the attorneys for that Party and shall be deemed effective for all purposes herein, and (iii) only notices, letters, documents, or instruments threatening to declare or declaring such addressee or recipient in default under this Agreement shall be required to be sent to the attorneys representing such addressee or recipient, if the name and address of such attorney is provided for herein.

19. ASSIGNMENT; SUBLEASING.

Licensee may not, directly or indirectly, assign this Agreement as a whole, or any portion of Licensee's rights, title and interests hereunder without Licensor's prior written consent. In no event may Licensee sublet, sublease, or permit any use of the Tower Facility or Licensed Space by any other party. Any permitted assignee shall expressly assume, and become bound by, all of Licensee's obligations under this Agreement. Licensor may freely assign, transfer, or sublease this Agreement and, in such event, Licensor shall be relieved of all of its obligations under this Agreement from and after the date of such assignment or transfer. Licensee shall pay Licensor a fee of \$500.00 (which fee shall increase annually on each anniversary of the Commencement Date by a percentage rate increase equal to the Annual Escalator) in each instance in which Licensee requests Licensor to consent to an assignment of this Agreement or in which Licensee seeks an estoppel certificate, non-disturbance agreement, subordination agreement or other similar agreement to defray the administrative cost incurred by Licensor to process such requests, prepare and process any necessary documentation, and modify its database and other information systems to reflect any such agreement. Such fee is due upon submission of Licensor's request and is hereby deemed fully earned by Licensor upon receipt. Notwithstanding anything to the contrary, Licensor may condition its consent to any assignment, on among other things, (i) requiring that the assignee execute a new form of license agreement so long as the Monthly License Fee and Initial and Renewal Terms of such agreement are consistent with those set forth in this Agreement, and (ii) requiring the assignee to demonstrate that it maintains at the time of such assignment, as evidenced by current financial statements provided to Licensor, a financial position reasonably demonstrating the ability of such assignee to meet and perform the obligations of Licensee hereunder through the unexpired balance of the then current Initial Term or Renewal Term. Any purported assignment by Licensee in violation of the terms of this Agreement shall be void. This Agreement shall be binding upon the successors and permitted assigns of both Parties.

20. SUBORDINATION TO GROUND LEASE.

The Parties acknowledge and agree that in the event Licensor's rights in the Licensed Space and/or any part of the Tower Facility is derived in whole or part pursuant to an underlying lease, sublease, permit, easement or other right of use agreement (a "**Ground Lease**"), all terms, conditions and covenants contained in this Agreement shall be specifically subject to and subordinate to the terms and conditions of the applicable Ground Lease. In the event that any of the provisions of the Ground Lease are in conflict with any of the provisions of this Agreement (other than those provisions relating to the length of term, termination rights or financial consideration), the terms of the Ground Lease shall control. Further, Licensee agrees to comply with the terms of such Ground Lease as applicable to the access and occupancy of the Licensed Space. Notwithstanding anything contained in this Agreement to the contrary, if the Ground Lease expires or is terminated for any reason, this Agreement shall terminate on the effective date of such termination and Licensor shall have no liability to Licensee as a result of the termination of this Agreement. Licensor is under no obligation to extend the term of or renew the Ground Lease. Licensor shall give Licensee written notice of such termination or expiration of this Agreement as a result of the termination or expiration of the Ground Lease as soon as practicable. Unless prohibited by the terms of such Ground Lease, upon Licensee's written request, Licensor shall provide a copy of any applicable Ground Lease with the economic terms and other terms that Licensor deems reasonably confidential redacted.

21. DEFAULT.

The occurrence of any of the following instances shall be considered to be a default or a breach of this Agreement by Licensee: (i) any failure of Licensee to pay the Monthly License Fee, or any other charge for which Licensee has the responsibility of payment under this Agreement, within ten (10) Business Days of the date following written notice to Licensee from Licensor, or its designee, of such delinquency, it being understood, however, that Licensor is obligated to provide such notice only two times in each calendar year, and the third instance of the failure to pay the Monthly License Fee or any other charge shall be an immediate default without notice to Licensee if not paid within ten (10) Business Days of the date when due; (ii) except for a PCN Default for which the cure period is set forth in clause (iv) below, any failure of Licensee to perform or observe any term, covenant, provision or condition of this Agreement which failure is not corrected or cured by Licensee within thirty (30) days of receipt by Licensee of written notice from Licensor, or its designee, of the existence of such a default; except such thirty (30) day cure period shall be extended as reasonably necessary to permit Licensee to complete a cure so long as Licensee commences the cure within such thirty (30) day cure period and thereafter continuously and diligently pursues and completes such cure; (iii) failure of Licensee to abide by the Interference provisions as set forth in Section 11; (iv) a PCN Default occurs that Licensee fails to cure within ten (10) days of Licensor's written notice to Licensee, or its designee of the existence of such default; (v) Licensee shall become bankrupt, insolvent or file a voluntary petition in bankruptcy, have an involuntary petition in bankruptcy filed against Licensee which cannot be or is not dismissed by Licensee within sixty (60) days of the date of the filing of the involuntary petition, file for reorganization or arrange for the appointment of a receiver or trustee in bankruptcy or reorganization of all or a substantial portion of Licensee's assets, or Licensee makes an assignment for such purposes for the benefit of creditors; (vi) this Agreement or Licensee's interest herein or Licensee's interest in the Tower Facility are executed upon or attached; (vii) Licensee commits or fails to perform an act which results in a default under or nonconformance with the Ground Lease by Licensor and the same shall not be cured within 5 Business Days (or such shorter time as permitted under the Ground Lease to cure) of the date following written notice to Licensee from Licensor, or its designee, of such default; or (viii) the imposition of any lien on the Approved Equipment except as may be expressly authorized by this Agreement, or an attempt by Licensee or anyone claiming through Licensee to encumber Licensor's interest in the Tower Facility, and the same shall not be dismissed or otherwise removed within ten (10) Business Days of written notice from Licensor to Licensee.

22. REMEDIES.

In the event of a default or a breach of this Agreement by Licensee and after Licensee's failure to cure the same within the time allowed Licensee to cure such default, if applicable, then Licensor may, in addition to all other rights or remedies Licensor may have hereunder at law or in equity, (i) terminate this

Agreement by giving written notice to Licensee, stating the date upon which such termination shall be effective, accelerating and declaring to be immediately due and payable the then present value of all Monthly License Fees and other charges or fees which would have otherwise been due Licensor absent a breach of this Agreement by Licensee, discounted by an annual percentage rate equal to five percent (5%), (ii) terminate electrical power to the Approved Equipment, and/or (iii) remove the Approved Equipment without being deemed liable for trespass or conversion and store the same at Licensee's sole cost and expense for a period of thirty (30) days after which the Approved Equipment, other than Hazardous Materials, will be deemed conclusively abandoned if not claimed by Licensee. Licensee shall pay all reasonable attorney's fees, court costs, removal and storage fees (including any damage caused thereby), and other items of cost reasonably incurred by Licensor in recovering the Monthly License Fee or other fee or charge. Licensee shall not be permitted to claim the Approved Equipment until Licensor has been reimbursed for removal and storage fees. Past due amounts under this Agreement will bear interest from the date upon which the past due amount was due until the date paid at a rate equal to eighteen percent (18%) per annum, or at a lower rate if required by law in the state in which this Agreement is to be performed. In addition, Licensee shall be assessed a late payment fee equal to twenty-five percent (25%) of the then-current Monthly License Fee for any payment or reimbursement due to Licensor under this Agreement which is overdue by ten (10) days or more and such fee shall be assessed for each thirty (30) day period thereafter that any such amount (or portion thereof) remains unpaid.

23. GOVERNMENTAL APPROVALS; PERMITS.

In the event that any governmental permit, approval or authorization required for Licensor's use of, operation of, or right to license space to Licensee at the Tower Facility is terminated or withdrawn by any governmental authority or third party as part of any governmental, regulatory, or legal proceeding, Licensor may terminate this Agreement. Licensee hereby agrees that in the event of a governmental or legal order requiring the removal of the Approved Equipment from the Tower, the modification of the Tower, or the removal of the Tower, Licensee shall remove the Approved Equipment promptly, but in no event later than the date required by such order, at Licensee's sole cost and expense. Licensor shall cooperate with Licensee in Licensee's efforts to obtain any permits or other approvals that may be necessary for Licensee's installation and operation of the Approved Equipment, provided that Licensor shall not be required to expend any funds or undertake any liability or obligation in connection with such cooperation. Licensor may elect to obtain such required approvals or permits on Licensee's behalf, at Licensee's sole cost and expense. In no event may Licensee encourage, suggest, participate in or permit the imposition of any restrictions or additional obligations whatsoever on the Tower Facility or Licensor's current or future use or ability to license space at the Tower Facility as part of or in exchange for obtaining any such approval or permit. In the event that Licensee's shelter or cabinets are installed above a third-party or Licensor-owned shelter or building, Licensee shall be solely responsible for obtaining any required approvals, or permits in connection with such shelter or cabinet installation, excepting the consent of other users at the Tower Facility and/or the ground landlord which shall remain the sole responsibility of Licensor where required.

24. REPLACEMENT OF TOWER/RELOCATION OF APPROVED EQUIPMENT.

(a) **Replacement of Tower.** Licensor may, at its election, replace or rebuild the Tower or a portion thereof. Such replacement will (i) be at Licensor's sole cost and (ii) not result in an interruption of Licensee's communications services beyond that which is necessary to replace the existing Tower. If Licensee, in Licensee's reasonable discretion, cannot operate the Approved Equipment from the existing Tower during such replacement or rebuild of the Tower, Licensee may establish, at Licensee's sole cost, a temporary facility on the Tower Facility to provide such services as Licensee deems necessary during any such construction by Licensor so long as adequate space is then available. The location of such temporary facilities shall be subject to Licensor's approval. The Monthly License Fee due hereunder shall be abated for any period during which Licensee is prevented from broadcasting from the existing Tower due to such replacement or relocation. At the request of either Party, Licensor and Licensee shall enter into an amendment to this Agreement to clarify the rights of Licensor and Licensee to the new Tower Facility.

(b) **Relocation of Approved Equipment.** In the event another Paying Carrier (as hereinafter defined) desires to occupy the space on the Tower (which includes any necessary vertical separation as determined by Licensor) where Licensee's Approved Equipment is then located (the "**Trigger Condition**"), Licensor reserves the right to require Licensee to decide whether to (i) terminate this Agreement, (ii) relocate Licensee's Approved Equipment located at the Tower Facility, at Licensee's sole cost and expense, to another antenna mount height on the Tower, or (iii) increase the Monthly License Fee to that which would initially be paid by the Paying Carrier ("**Paying Carrier Rate**"), all in accordance with the terms and provisions provided in this Subsection 24(b). Upon the Trigger Condition occurring, Licensor may notify Licensee in writing ("**Relocation Notice**") that the Trigger Condition has occurred and if other spaces or antenna mount heights are available to accommodate Licensee's Approved Equipment on the Tower (without the requirement of any improvements to the Tower by Licensor), indicate which other spaces or antenna mount heights are so available and, also, indicate the Paying Carrier Rate. Within ten (10) Business Days of Licensee's receipt of the Relocation Notice, Licensee will be required to inform Licensor in writing of its election either to (A) increase the Monthly License Fee to the Paying Carrier Rate (which would thereafter be subject to escalation of the Monthly License Fee generally as otherwise provided in this Agreement) and continue to occupy the same space or antenna mount height on the Tower; (B) provided other spaces or antenna mount height are available on the Tower, relocate Licensee's Approved Equipment to one of the other such spaces or antenna mount height as specified in the Relocation Notice; or (C) remove Licensee's Approved Equipment from Tower and terminate this Agreement. If Licensee elects option (A), then such election shall be effective and the Monthly License Fee shall increase effective upon the eleventh Business Day after Licensee's receipt of the Relocation Notice without further act or deed. If Licensee elects option (B), if such option is available, and notifies Licensor that it elects to relocate its Approved Equipment to a particular antenna mount height or space specified in the Relocation Notice, Licensee shall have forty-five (45) days of Licensee's receipt of the Relocation Notice to relocate its Approved Equipment on the Tower to such elected space or antenna mount height at Licensee's sole cost and expense, such relocation to be subject to all of the terms and conditions of this Agreement otherwise imposed. If Licensee elects or is deemed to elect option (C), Licensee will remove its Approved Equipment from the Tower Facility within forty-five (45) days of Licensee's receipt of the Relocation Notice, such removal to be subject to all terms and conditions of this Agreement otherwise imposed. If Licensor fails to receive notice from Licensee within such ten (10) Business Day period as to whether Licensee elects option (A), (B) or (C), then Licensee shall be deemed conclusively to have elected option (C). If Licensee elects option (B) or elects or is deemed to elect option (C), if Licensee fails to relocate or remove the Approved Equipment within such time period as required above, TIME BEING OF THE ESSENCE, then the Approved Equipment shall be deemed conclusively and absolutely abandoned by Licensee and anyone claiming by, through, or under Licensee except for Hazardous Materials and waste and equipment containing Hazardous Materials and waste, which shall be removed by Licensee from the Tower Facility immediately; and Licensor shall have the right to remove the Approved Equipment at Licensee's sole expense and dispose of such Approved Equipment in any manner Licensor so elects, and Licensee shall reimburse Licensor for its expenses upon demand without off-set. For purposes of this Subsection, a "**Paying Carrier**" is a paying carrier or potential licensee of Licensor which, through a written Application or offer, offers to monetarily compensate Licensor for the right to use the space on the Tower included in the Licensed Space.

(c) **Tower Removal:** If during the term of this Agreement Licensor determines based on engineering structural standards generally applied to communications towers that the Tower is or has become structurally unsound such that pursuant to generally accepted industry safety standards the Tower or a portion thereof must be removed, then, upon ninety (90) days' prior written notice to Licensee, Licensor may, in its sole discretion either (i) remove the Tower and terminate this Agreement effective as of the date of such removal, or (ii) modify the Tower and relocate Licensee's Approved Equipment to an alternative location on the modified Tower. If Licensee and Licensor are not able to agree on an alternative location on the modified Tower for the installation of Licensee's Approved Equipment within the foregoing ninety (90) day notice period, then Licensee or Licensor may elect to terminate this Agreement.

25. EMISSIONS.

If antenna power output ("**RF Emissions**") is presently or hereafter becomes subject to any restrictions imposed by the FCC or other governmental agency for RF Emissions standards on Maximum Permissible Exposure ("**MPE**") limits, or if the Tower Facility otherwise becomes subject to federal, state or local rules, regulations, restrictions or ordinances, Licensee shall comply with Licensor's reasonable requests for modifications to the Approved Equipment which are reasonably necessary for Licensor to comply with such limits, rules, regulations, restrictions or ordinances and Licensor shall use commercially reasonable efforts to cause all other licensees of the Tower Facility to promptly comply. If Licensor requires an engineering evaluation or other power density study be performed to evaluate RF Emissions compliance with MPE limits, then all reasonable costs of such an evaluation or study shall be paid proportionately by Licensee and all other licensees of the Tower within thirty (30) days of Licensor's request therefor. If said study or a study sponsored by any governmental agency indicates that RF Emissions at the Tower Facility do not comply with MPE limits, then Licensee and Licensor, each for itself, shall immediately take any and all steps necessary to ensure that it is individually in compliance with such limits, up to and including cessation of operation, until a maintenance program or other mitigating measures can be implemented to comply with MPE and in addition, Licensor shall use commercially reasonable efforts to cause all other licensees of the Tower to take similar steps necessary to ensure that they are individually in compliance with such limits.

26. ENVIRONMENTAL.

Licensee covenants that it will not use, store, dispose, or release any Hazardous Substances on the Tower Facility in violation of Applicable Law. Licensee agrees to indemnify and save harmless Licensor against any and all Claims, liabilities, causes of action, Damages, orders, judgments, and clean-up costs arising from Licensee's breach of any of the covenants contained in this Section 26. The obligations of Licensee to indemnify Licensor pursuant to this Section 26 shall survive the termination or expiration of this Agreement.

27. SUBROGATION.

(a) **Waiver.** Licensor and Licensee waive all rights against each other and any of their respective consultants and contractors, agents and employees, for Damages caused by perils to the extent covered by the proceeds of the insurance provided herein, except such rights as they may have to the insurance proceeds. All insurance policies required under this Agreement shall contain a waiver of subrogation provision under the terms of which the insurance carrier of a Party waives all of such carrier's rights to proceed against the other Party. Licensee's insurance policies shall provide such waivers of subrogation by endorsement. Licensee shall require by appropriate agreements, written where legally required for validity, similar waivers from its contractors and subcontractors. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

(b) **Mutual Release.** Notwithstanding anything in this Agreement to the contrary, Licensor and Licensee each release the other and its respective affiliates, employees and representatives from any Claims by them or any one claiming through or under them by way of subrogation or otherwise for Damage to any person or to the Tower Facility and to the fixtures, personal property, improvements and alterations in or on the Tower Facility that are caused by or result from risks insured against under any insurance policy carried by each and required by this Agreement, provided that such releases shall be effective only if and to the extent that the same do not diminish or adversely affect the coverage under such insurance policies and only to the extent of the proceeds received from such policy.

28. GOVERNING LAW.

This Agreement shall be governed by the laws of the state in which the Tower Facility is located, with the exception of its choice of laws provisions. If any provision of this Agreement is found invalid or unenforceable under judicial decree or decision, the remaining provisions of this Agreement shall remain in full force and effect. Any approval, consent, decision, or election to be made or given by a Party may

be made or given in such Party's sole judgment and discretion, unless a different standard (such as reasonableness or good faith) is provided for explicitly.

29. MISCELLANEOUS.

Upon Licensor's written request, Licensee shall promptly furnish Licensor with complete and accurate information in response to any reasonable request by Licensor for information about any of the Approved Equipment or utilities utilized by Licensee at the Tower Facility or any of the channels and frequencies utilized by Licensee thereon. In the event that this Agreement is executed by Licensor, its Affiliates or any trade name utilized by Licensor or its Affiliates and such signatory does not hold the real Tower Facility or leasehold interest in the affected Tower Facility, the execution of this Agreement shall be deemed to have been properly executed by Licensor or Licensor's Affiliate which properly holds such interest in the affected Tower Facility. Upon the termination or expiration of this Agreement, Licensee shall immediately upon the request of Licensor deliver a release of any instruments of record evidencing such Agreement. Notwithstanding the expiration or earlier termination of this Agreement, Sections 15, 16, 17, and 26 shall survive the expiration or earlier termination of this Agreement. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision herein (whether or not similar), nor shall such waiver constitute a continuing waiver unless expressly agreed to in writing by the affected Party. This Agreement constitutes the entire agreement of the Parties hereto concerning the subject matter herein and shall supersede all prior offers, negotiations and agreements, whether written or oral. No revision of this Agreement shall be valid unless made in writing and signed by authorized representatives of both Parties. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute but one instrument. The Parties agree that a scanned or electronically reproduced copy or image of this Agreement shall be deemed an original and may be introduced or submitted in any action or proceeding as a competent evidence of the execution, terms and existence of this Agreement notwithstanding the failure or inability to produce or tender an original, executed counterpart of this Agreement and without the requirement that the unavailability of such original, executed counterpart of this first be proven.

30. CONFIDENTIALITY.

Neither Party shall use the other's name, service mark or trademark in any public announcement or advertisement without the prior written consent of the other Party, which may be withheld in such Party's sole and absolute discretion.

The submission of this Agreement for examination and negotiation does not constitute an offer to license, or a reservation of, or option for, any portion of the Tower Facility, and Licensee shall have no right to use or occupy any portion of the Tower Facility or any appurtenant easement area hereunder until the execution and delivery of this Agreement by both Licensor and Licensee.

ATTACHED EXHIBITS:

- Exhibit A: List of Approved Equipment and location of the Licensed Space
- Exhibit B: Site Drawings indicating the location of Ground Space for Licensee's equipment shelter or space in Licensor's building (as applicable)
- Exhibit C: As-Built Drawings or Construction Drawings to be attached within forty-five (45) days after the Commencement Date in accordance with Section 3
- Appendix I: Definitions
- Appendix II: Insurance

Exhibit A

List of Approved Equipment and location of the Licensed Space

Exhibit A						
Customer Name: COUNTY OF MONTEREY		ATC Asset Name: TABLE MOUNTAIN CA1-			ATC Asset #: 1021	
Customer Site Name: Table Mountain Site				Customer Site #: N/A		
GROUND SPACE REQUIREMENTS						
Total Lease Area	Sq. Ft: 4.00'	Primary Contiguous Lease Area		L:2.00'	W:2.00'	H:7.00' Sq. Ft: 4.00
ATC Building				2.00'	2.00'	7.00' 4.00
Outside Primary Lease Area				N/A	N/A	N/A Sq. Ft: N/A
BACKUP POWER REQUIREMENTS						
Generator: N/A		Capacity(KW): N/A		Fuel Tank Size(gal): N/A	Fuel Type: N/A	Fuel Tank Setback(radius): N/A
UTILITY REQUIREMENTS						
Power Provided By: Utility Company Direct						
Telco/Interconnect: Microwave						
TRANSMITTER & RECEIVER SPECIFICATIONS						
Type: TX/RX	Quantity: 1	TX Power(watts): 10			ERP(watts): 15	
Type: TX/RX	Quantity: 1	TX Power(watts): 100			ERP(watts): 150	
ANTENNA EQUIPMENT SPECIFICATIONS						
Type	YAGI	YAGI	N/A	N/A	N/A	N/A
Manufacturer	Sinclair	PCTEL	N/A	N/A	N/A	N/A
Model #	SY203-SF7SNM(E)	MYA4503	N/A	N/A	N/A	N/A
Dimensions HxWxD	42" x 75.3" x null"	23" x 1" x 1"	N/A	N/A	N/A	N/A
Weight(lbs.)	5.5	1.5	N/A	N/A	N/A	N/A
Location	Exterior Shelter Mount	Exterior Shelter Mount	N/A	N/A	N/A	N/A
RAD Center AGL	15.0'	12.0'	N/A	N/A	N/A	N/A
Antenna Tip Height	16.8'	13.0'	N/A	N/A	N/A	N/A
Antenna Base Height	13.2'	11.0'	N/A	N/A	N/A	N/A
Mount Type	Pole Mount	Pole Mount	N/A	N/A	N/A	N/A
Quantity	1	1	N/A	N/A	N/A	N/A
Azimuths/Dir. of Radiation	266	266	N/A	N/A	N/A	N/A
Quant. Per Azimuth/Sector	1	1	N/A	N/A	N/A	N/A
TX/RX Frequency Units	MHz	MHz	N/A	N/A	N/A	N/A
TX Frequency	155.730	458.375	N/A	N/A	N/A	N/A
RX Frequency	159.090	453.375	N/A	N/A	N/A	N/A
Using Unlicensed Frequencies?	No	No	N/A	N/A	N/A	N/A
Antenna Gain	5.5	7.1	N/A	N/A	N/A	N/A
Total # of Lines	1	1	N/A	N/A	N/A	N/A
Line Quant. Per Azimuth/Sector	1	1	N/A	N/A	N/A	N/A
Line Type	Coax	Coax	N/A	N/A	N/A	N/A
Line Diameter Size	0.63" (16mm) LDF4-50A	0.63" (16mm) LDF4-50A	N/A	N/A	N/A	N/A
Line Configuration	N/A	N/A	N/A	N/A	N/A	N/A

OAA701365

Exhibit B

**Site Drawing indicating the location of Ground Space for Licensee's equipment shelter
or space in Licensors building (as applicable)**

Licensee shall not commence installation until Licensors has approved in writing said drawing and
attached it hereto.

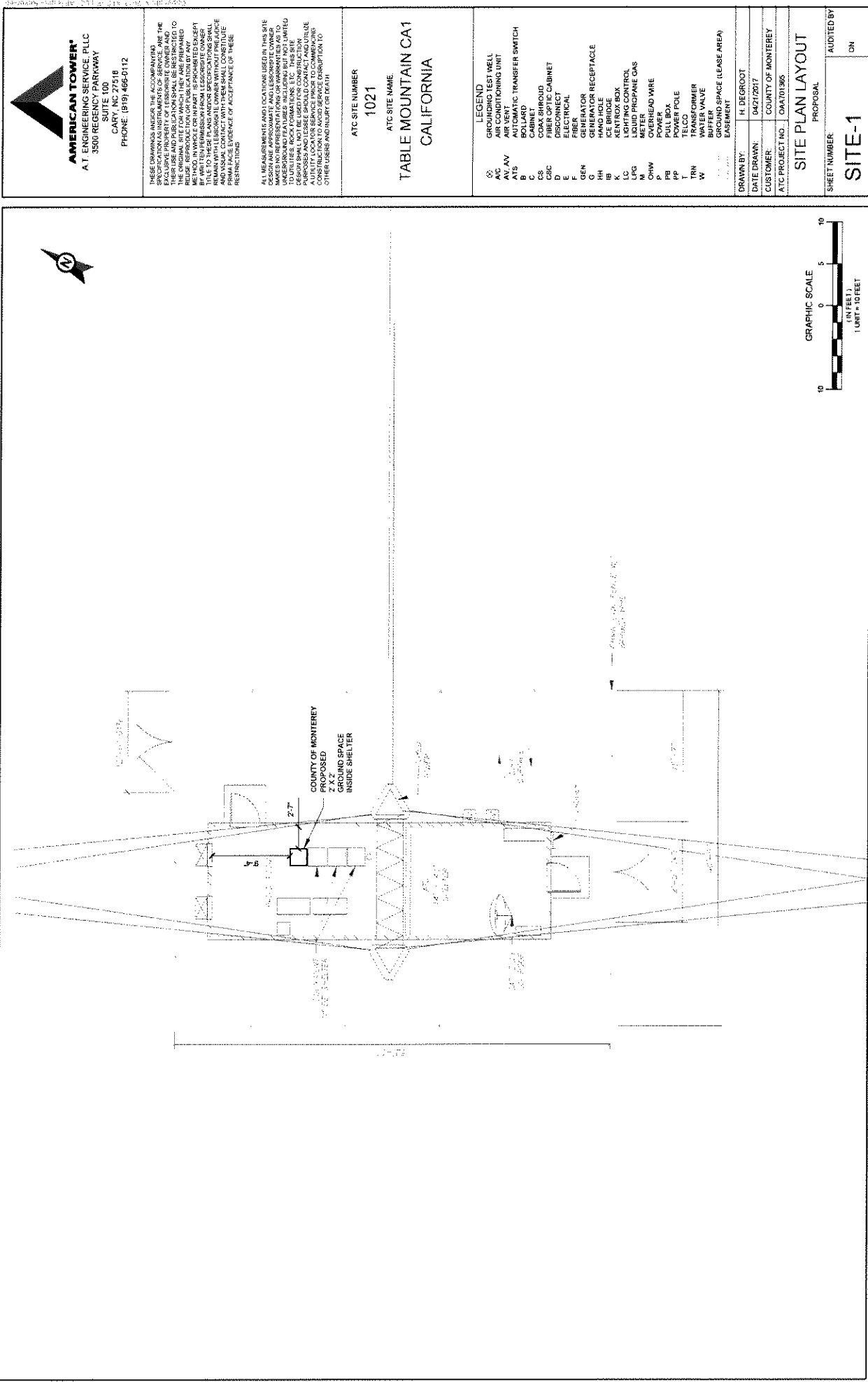


Exhibit C

As Built Drawings or Construction Drawings

To be attached hereto within forty-five (45) days after the Commencement Date.

Appendix I

Defined Terms

Affiliate(s): Any corporation, partnership, limited liability company or other entity that (i) is controlled directly or indirectly (through one or more subsidiaries) by Licensee, (ii) is the successor or surviving entity by a merger or consolidation of Licensee pursuant to Applicable Law, or (iii) purchases all or substantially all of the assets of Licensee. For purposes of this definition, "**control**" means the possession of the right through the ownership of fifty percent (50%) or more of the shares with voting rights to effectively direct the business decisions of the subject entity.

Agreement: defined in the introductory paragraph.

Annual Escalator: defined in Section IV.

Applicable Law: All applicable statutes, ordinances, laws, regulations and directives of any federal, state or local governmental unit, authority or agency having jurisdiction over a Licensed Space or affecting the rights and obligations of Licensor or Licensee under this Agreement, including without limitation, the Communications Act of 1934, as amended from time to time, FCC Rules and Regulations, and the rules, regulations and written policies and decisions of the FAA.

Application: defined in Section IV.

Application Fee: defined in Section IV.

Approved Equipment: the communications system, including antennas, radio equipment, cabling and conduits, shelter and/or cabinets and other personal property owned or operated by Licensee at the Licensed Space, as defined in Exhibit A or B to this Agreement.

BLM: defined in Subsection 5(d).

Business Day: a day other than a Saturday, Sunday or legal holiday for commercial banks under the laws of the United States or the state in which the Tower Facility is located.

Claims: demands, claims, suits, actions, proceedings or investigations brought against a Party by an unrelated or unaffiliated person or entity.

Commencement Date: defined in Section IV.

Common Expenses: defined in Section 7.

Connection Fee: defined in Section IV.

Construction Drawings: defined in Section 3.

Damages: debts, liabilities, obligations, losses, damages, excluding consequential or punitive damages, costs and expenses, interest (including, without limitation, prejudgment interest), penalties, reasonable legal fees, court costs, disbursements and costs of investigations, deficiencies, levies, duties and imposts.

Easement: defined in Section 2.

Effective Date: defined in the introductory paragraph.

FAA: the United States Federal Aviation Administration or any successor federal agency established for the same or similar purpose.

FCC: the United States Federal Communications Commission or any successor federal agency established for the same or similar purpose.

FCC Rules and Regulations: All of the rules, regulations, public guidance, written policies and decisions governing telecommunications generally and wireless telecommunications specifically as promulgated and administered by the FCC, which on the Effective Date includes, but is not limited to, those administered by the Wireless Telecommunications Bureau of the FCC and more specifically referenced as the Code of Federal Regulations, title 47, parts 0 through 101, as amended.

Final Rule: defined in Subsection 11(g).

Ground Lease: defined in Section 20.

Ground Space: The portion of the Tower Facility licensed for use by Licensee to locate a portion of the Approved Equipment thereon, in the square footage amount depicted on Exhibit B of this Agreement. In no event shall the Ground Space include the air space or rights above the Approved Equipment located in the Ground Space.

Hazardous Substances: Any hazardous material or substance which is or becomes defined as a hazardous substance, pollutant or contaminant subject to reporting, investigation or remediation pursuant to Applicable Law; any substance which is or becomes regulated by any federal, state or local governmental authority; and any oil, petroleum products and their by-products.

Holdover Fee: defined in Subsection 6(c).

Indemnified Party: any person or entity entitled to indemnification under Section 15 hereof.

Indemnifying Party: any person or entity obligated to provide indemnification under Section 15 hereof.

Initial Term: defined in Section IV and referenced in Subsection 6(c).

Interference: defined in Subsection 11(a)(i).

Labeling Fee: defined in Section 9.

Licensed Frequencies: defined in Subsection 11(a)(ii).

Licensed Space: Location of the Approved Equipment on the Tower and at the Ground Space as more specifically described in Exhibits A and B attached hereto.

Licensed User: defined in Subsection 11(a)(iii).

Licensee: defined in the introductory paragraph.

Licenser: defined in the introductory paragraph.

Monthly License Fee: defined in Section IV and referenced in Subsection 5(a).

MPE: defined in Section 25.

Notice Address: defined in Section 18.

NTP (Notice to Proceed): Written notice from Licensor to Licensee acknowledging that all required documentation for the construction and installation of the Approved Equipment has been received and approved by Licensor and Licensee is authorized to commence its installation of the Approved Equipment at the Licensed Space, as more particularly set forth in Subsection 10(a) of this Agreement.

Paying Carrier: defined in Subsection 24(b).

Paying Carrier Rate: defined in Subsection 24(b).

Party(ies): Licensor or Licensee.

PCN Default: defined in Subsection VI.A.

PCN Retention Fee: defined in Subsection VI.A.

PCNs: defined in Subsection VI.A.

Permitted Frequencies: defined in Section III.

Priority User: defined in Subsection 11(a)(iv).

Relocation Application Fee: defined in Section IV.

Relocation Notice: defined in Subsection 24(b).

Remittance Address: defined in Section II.

Renewal Term(s): defined in Section IV and referenced in Subsection 6(b).

RF Emissions: defined in Section 25.

Site Inspection Fee: defined in Section IV.

SSIS: defined in Subsection 10(b).

SSIS Fee: defined in Subsection 10(b).

Structural Analysis Fee: defined in Subsection 10(b).

Subsequent User: defined in Subsection 11(a)(v).

Term: Initial Term and each Renewal Term which is effected pursuant to Section 6 of this Agreement.

Tower: A communications or broadcast tower owned and operated by Licensor and located at the Tower Facility.

Tower Facility: Certain real property owned, leased, subleased, licensed or managed by Licensor shown on page 1 of this Agreement, on which a Tower owned, leased, licensed or managed by Licensor is located.

Trigger Condition: defined in Section 24(b).

Unlicensed Frequencies: defined in Subsection 11(a)(vi).

Unlicensed User: defined in Subsection 11(a)(vii).

Utility Change Event: defined in Subsection 5(b).

Utility Fee: defined in Section IV.

USFS: defined in Section 5(d).

Work: all work relating to the construction, installation, relocation and reconfiguration of Licensee's Approved Equipment on the Tower Facility, including without limitation, construction management, construction of an equipment pad, installation or modification of lines, antennas, shelters and equipment cabinets.

Appendix II

Insurance

A. Licensors shall maintain in full force during the Term of this Agreement the following insurance:

1. Workers' Compensation Insurance with statutory limits in accordance with all applicable state, federal and maritime laws, and Employers' Liability Insurance with minimum limits of \$500,000.00 per accident/occurrence, or in accordance with all applicable state, federal and maritime laws.
2. Commercial General Liability Insurance (Bodily Injury and Tower Facility Damage), the limits of liability of which shall not be less than \$1,000,000.00 per occurrence.
3. An umbrella policy of not less than Five Million Dollars (\$5,000,000.00).

The above insurance shall provide that Licensee will receive not less than thirty (30) days written notice prior to any cancellation of, or material change in coverage. The insurance specified in this Item A shall contain a waiver of subrogation against Licensee and shall name Licensee as an additional insured, and shall be primary over any insurance coverage in favor of Licensee but only with respect to and to the extent of the insured liabilities assumed by Licensors under this Agreement and shall contain a standard cross-liability endorsement.

B. Licensee shall maintain in full force during the Term of this Agreement the following insurance:

1. Workers' Compensation Insurance with statutory limits in accordance with all applicable state, federal and maritime laws, and Employers' Liability Insurance with minimum limits of \$500,000.00 per accident/occurrence, or in accordance with all applicable state, federal and maritime laws.
2. Commercial General Liability Insurance (Bodily Injury and Tower Facility Damage), the limits of liability of which shall not be less than \$1,000,000.00 per occurrence.
3. An umbrella policy of not less than Five Million Dollars (\$5,000,000.00).

The above insurance shall provide that Licensors will receive not less than thirty (30) days written notice prior to any cancellation of, or material change in coverage. The insurance specified in this Item B shall contain a waiver of subrogation against Licensors and shall name Licensors as additional insured, and shall be primary over any insurance coverage in favor of Licensors but only with respect to and to the extent of the insured liabilities assumed by Licensee under this Agreement and shall contain a standard cross-liability endorsement.

Notwithstanding the foregoing, so long as (but only so long as) the County of Monterey shall be the Licensee hereunder, Licensee shall be permitted to self-insure for the perils and risks covered under the policies of insurance set forth in this Item B. Licensee agrees that, in the event of any Damages that would have been covered by Licensee's insurance pursuant to this Item B, Licensee shall perform all of the obligations of a third-party private insurer as if Licensee had elected to obtain the insurance required under this Item B from a private third-party insurer. In addition, Licensee shall cause all contractors, subcontractors or any other person or entity with access to the Tower Facility or the Tower to carry the insurance in the types and amounts set forth in Item C, and no such contractor or subcontractor shall access or climb the Tower for any reason whatsoever, unless and until Licensee shall deliver to Licensors certificates of insurance or other evidence reasonably satisfactory to Licensors evidencing such insurance. Licensee further agrees that, for purposes of the waiver of subrogation contained in Section 27(a) herein, Licensee shall be deemed an insurer and shall be bound by such waiver of subrogation.

C. Licensee shall cause all contractors or subcontractors performing Work on any Licensed Space prior to the commencement of any such Work on behalf of Licensee to obtain and maintain in full force the following insurance:

1. Worker's Compensation Insurance with statutory limits in accordance with all applicable state, federal and maritime laws, and Employers' Liability Insurance with minimum limits of \$500,000.00 per accident/occurrence, or in accordance with all applicable state, federal and maritime laws.
2. Commercial General Liability Insurance (Bodily Injury and Tower Facility Damage), the limits of liability of which shall not be less than \$1,000,000.00 per occurrence.
3. An umbrella policy of not less than Five Million Dollars (\$5,000,000.00).

The above insurance shall provide that Licensors will receive not less than thirty (30) days written notice prior to any cancellation of, or material change in coverage. The insurance specified in this Item C shall contain a waiver of subrogation against Licensors and shall name Licensors as additional insured, and shall be primary over any insurance coverage in favor of Licensors but only with respect to and to the extent of the insured liabilities assumed by Licensee under this Agreement and shall contain a standard cross-liability endorsement.

D. Notwithstanding the foregoing insurance requirements, (a) the insolvency, bankruptcy, or failure of any insurance company carrying insurance for either Party, or failure of any such insurance company to pay Claims accruing, shall not be held to waive any of the provisions of this Agreement or relieve either Party from any obligations under this Agreement, and (b) Licensors reserves the right, from time to time, to increase the required liability limits described above in Items A, B and C in accordance with then-current customary insurance requirements in the tower industry nationally.

FIRST AMENDMENT TO LICENSE AGREEMENT

This First Amendment (the "First Amendment") to that certain License Agreement dated September 1, 2017 by and between American Tower, L.P. and County of Monterey (the "Agreement") is made and entered into as of the latter signature date hereof, by and between American Towers LLC, a Delaware limited liability company, as successor-in-interest to the Agreement (the "Licensor") and County of Monterey, a political subdivision of the State of California (the "Licensee") (collectively, the "Parties").

RECITALS

WHEREAS, Licensor owns a certain communications tower on a certain parcel of land located at Turkey Flat Road, South side of Table Mountain, San Miguel, CA 94351-9773 more commonly known to Licensor as the Table Mountain CA1 tower site (the "Tower Site"); and

WHEREAS, Licensor and Licensee entered into the Agreement for the use of a certain portion of the Tower Site; and


WHEREAS, Licensee desire to amend the License Agreement term to extend it for additional five years;

WHEREAS, all other terms of the License Agreement will remain unchanged.

NOW, THEREFORE, in consideration of the foregoing promises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Licensor and Licensee agree to extend the term of the Agreement commencing on September 1, 2022 (the "Extension Term Commencement Date") for a period of five (5) years (the "Extension Term").
2. Immediately following the expiration of the Extension Term, there shall be two (2) additional period of five (5) years ("Renewal Term"). The Agreement shall automatically renew for the Renewal Term unless either Party notifies the other in writing of its intention not to renew this Agreement at least one hundred and eighty (180) days prior to the end of the Extension Term.
3. Capitalized terms contained herein, unless otherwise defined, are intended to have the same meaning and effect as that set forth in the Agreement.
4. The Parties agree that (i) a digital or electronic signature on this First Amendment and/or (ii) a fully executed scanned or electronically reproduced copy of image of this First Amendment shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of the execution, terms and existence hereof notwithstanding the failure or inability to produce or tender an original, manually executed counterpart of this First Amendment and without the requirement that the unavailability of such original, manually executed counterpart of this First Amendment first be proven.
5. All other terms and provisions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have set their hands to this First Amendment to that certain License Agreement as of the day and year written below:

<u>LESSEE: County of Monterey, a political subdivision of the State of California</u> By: Title: Chief Information Officer Date:	<u>LESSOR: American Towers LLC, a Delaware limited liability company</u> By:  Title: VP-Legal Date: 9/8/22 Daniel Boe
<u>COUNTY COUNSEL</u> By: Title: Deputy County Counsel Date:	<u>AUDITOR-CONTROLLER</u> By: Title: Date:



Monterey County

Item No.35

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-876

September 27, 2022

Introduced: 9/12/2022

Current Status: General Government -
Consent

Version: 1

Matter Type: General Agenda Item

Adopt a resolution to amend Article XV of the Monterey County Master Fee Resolution, effective October 25, 2022, authorizing new fees and adjusting existing fees for Treasurer-Tax Collector services and enforcement requirements.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Adopt a resolution to amend Article XV of the Monterey County Master Fee Resolution, effective October 25, 2022, authorizing new fees and adjusting existing fees for Treasurer-Tax Collector services and enforcement requirements.

SUMMARY:

Section 1.40.010 of Chapter 1.40 of the Monterey County Code provides that all fees, penalties, refunds, reimbursements, and charges of any kind collected by the County may be specified in the Monterey County Fee Resolution. Article XV sets the schedule of fees and charges for the Treasurer-Tax Collector. Government Code 54985 specifies that amendments to this article require Board of Supervisors approval. Proposed amendments to the fee schedule update existing fees and establish some new fees to assist with a level of recovery of current costs for related services while not exceeding their actual cost to the department.

DISCUSSION:

The Treasurer-Tax Collector (TTC) has completed an extensive review of department fees, last amended on December 12, 2017, and effective January 15, 2018. Fiscal Year (FY) 2022-23 departmental salary and salary-driven benefits reflect a combined increase of 12.9% including 15.1% growth in base-line salaries costs and 9.6% higher salary-driven benefits charges. Increased charges for countywide cost allocations and internal service fees, which are assessed to departments per full-time equivalent employee (FTE), are 15.4% higher. These cost changes result in a combined average increase of 13.6% to the department for delivery of specified services.

As outlined in California Revenue and Taxation Code Section 2621, the TTC's recommended adjustments and new fees allow some cost recovery for existing services and new or revised departmental operations and requirements such as administration of bankruptcies, establishment and maintenance of payment plans, preparation of delinquent tax rolls, processing account reversal requirements and bank charges for returned checks, and notice to delinquent taxpayers pursuant to California Government Code Section 54985.

Attachment A identifies individual fee amendments, changes, and additions as indicated by strike-out and underlined items. Attachment B provides the final version of the recommended fully adjusted Fee Schedule, effective October 25, 2022, pending Board approval.

OTHER AGENCY INVOLVEMENT:

County Counsel reviewed and approved the amended Fee Schedule and Resolution.

FINANCING:

Adoption of recommended fee changes provides a positive impact to the General Fund associated with the department's ability to recover increased costs for applicable services. Resulting increased annual revenue to the department is expected to appropriately recover a portion of increased departmental costs without exceeding actual costs associated with the related activities of the services provided. The recommended fees are collected based on statute and charged to individual recipients of those services, offsetting costs that would otherwise require increased contributions from the General Fund to support. The charges are not a 'tax' and are exempt from voter approval pursuant to Article XIII C section 1(e)(1)-(3) of the California Constitution (Prop. 26; charges imposed for specific benefit conferred/privilege/service or product, and/or reasonable regulatory costs provided or granted to the payer).

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Mark a check to the related Board of Supervisors Strategic Initiatives

☐ Economic Development

☒ Administration: The collection of fees authorized under this Resolution promotes an organization that practices efficient and effective resource management and will assist with achieving a balanced budget each year that sustains core services and efficiently allocates resources.

☐ Health & Human Services

☐ Infrastructure

☐ Public Safety

Prepared by: Jacob Stroud, Assistant Treasurer-Tax Collector x5112

Approved by: Mary A. Zeeb, Treasurer-Tax Collector x5474

Attachments:

Board Report

Attachment A - Proposed Article XV (strike out version)

Attachment B - Proposed Article XV (clean version)

Attachment C - Proposed Resolution

Attachment D - Fee study documentation



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers

168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-876

September 27, 2022

Introduced: 9/12/2022

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

Adopt a resolution to amend Article XV of the Monterey County Master Fee Resolution, effective October 25, 2022, authorizing new fees and adjusting existing fees for Treasurer-Tax Collector services and enforcement requirements.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Adopt a resolution to amend Article XV of the Monterey County Master Fee Resolution, effective October 25, 2022, authorizing new fees and adjusting existing fees for Treasurer-Tax Collector services and enforcement requirements.

SUMMARY:

Section 1.40.010 of Chapter 1.40 of the Monterey County Code provides that all fees, penalties, refunds, reimbursements, and charges of any kind collected by the County may be specified in the Monterey County Fee Resolution. Article XV sets the schedule of fees and charges for the Treasurer-Tax Collector. Government Code 54985 specifies that amendments to this article require Board of Supervisors approval. Proposed amendments to the fee schedule update existing fees and establish some new fees to assist with a level of recovery of current costs for related services while not exceeding their actual cost to the department.

DISCUSSION:

The Treasurer-Tax Collector (TTC) has completed an extensive review of department fees, last amended on December 12, 2017, and effective January 15, 2018. Fiscal Year (FY) 2022-23 departmental salary and salary-driven benefits reflect a combined increase of 12.9% including 15.1% growth in base-line salaries costs and 9.6% higher salary-driven benefits charges. Increased charges for countywide cost allocations and internal service fees, which are assessed to departments per full-time equivalent employee (FTE), are 15.4% higher. These cost changes result in a combined average increase of 13.6% to the department for delivery of specified services.

As outlined in California Revenue and Taxation Code Section 2621, the TTC's recommended adjustments and new fees allow some cost recovery for existing services and new or revised departmental operations and requirements such as administration of bankruptcies, establishment and maintenance of payment plans, preparation of delinquent tax rolls, processing account reversal requirements and bank charges for returned checks, and notice to delinquent taxpayers pursuant to California Government Code Section 54985.

Legistar File Number: 22-876

Attachment A identifies individual fee amendments, changes, and additions as indicated by strike-out and underlined items. Attachment B provides the final version of the recommended fully adjusted Fee Schedule, effective October 25, 2022, pending Board approval.

OTHER AGENCY INVOLVEMENT:

County Counsel reviewed and approved the amended Fee Schedule and Resolution.

FINANCING:

Adoption of recommended fee changes provides a positive impact to the General Fund associated with the department's ability to recover increased costs for applicable services. Resulting increased annual revenue to the department is expected to appropriately recover a portion of increased departmental costs without exceeding actual costs associated with the related activities of the services provided. The recommended fees are collected based on statute and charged to individual recipients of those services, offsetting costs that would otherwise require increased contributions from the General Fund to support. The charges are not a 'tax' and are exempt from voter approval pursuant to Article XIII C section 1(e)(1)-(3) of the California Constitution (Prop. 26; charges imposed for specific benefit conferred/privilege/service or product, and/or reasonable regulatory costs provided or granted to the payer).

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Mark a check to the related Board of Supervisors Strategic Initiatives

☐ Economic Development

☒ Administration: The collection of fees authorized under this Resolution promotes an organization that practices efficient and effective resource management and will assist with achieving a balanced budget each year that sustains core services and efficiently allocates resources.

☐ Health & Human Services

☐ Infrastructure

☐ Public Safety

DocuSigned by:

Jake Stroud

90E7E050754D4DE...

Prepared by: Jacob Stroud, Assistant Treasurer-Tax Collector x5112

DocuSigned by:

Mary A. Zeeb

16066971D0D0492

Approved by: Mary A. Zeeb, Treasurer-Tax Collector x5474

Attachments:

Board Report

Attachment A - Proposed Article XV (strike out version)

Attachment B - Proposed Article XV (clean version)

Attachment C - Proposed Resolution

Attachment D - Fee study documentation

Legistar File Number: 22-876

**ARTICLE XV
TREASURER-TAX COLLECTOR
Effective October 25, 2022**

Article XV – Fees of the Treasurer-Tax Collector’s Office

Section 1. General Fees

Description

	<u>Current</u>	<u>Proposed</u>
A. Document Copies		
1. Computer print-out from Tax system (per item)	\$1.00	
2. Non-computer copy (per item)	\$6.50	
3. Certification of copy (per item in addition to above fee)	\$1.00	
B. Research Fee (per hour, 1 hour minimum)	\$74.00	\$83.00
C. Returned Payment Fees		
1. Treasurer	\$38.00	\$43.00
2. Tax Collector	\$102.00	\$115.00
3. Revenue Division	\$102.00	\$115.00
D. Tax Roll on CD-ROM in Standardized format		
1. Secured Roll per request	\$250.00	\$316.00
2. Redemption Roll per request	\$125.00	\$191.00
E. Internet access to Tax Roll (per license per year)	\$659.00	\$770.00
F. Delinquent Tax Roll/Payment File Extraction (per month)	\$88.00	\$100.00
G. Emergency Request for Treasury Transfer of Funds (“Wire”)		\$108.00
H. Treasury Repetitive Reconciliation-(3 rd request to dept.)		\$107.00

Section 2. Collection Enforcement Fees

Description

A. Lien Fees		
1. Initial Recording	\$49.00	\$55.00
2. Release of Lien	\$49.00	\$55.00
3. Duplicate Release of Lien	\$19.00	\$21.00
4. Bond Breakout	\$35.00	\$38.00
B. Unsecured Delinquent Fee	10% of tax amount due	
C. Legal Publications	actual vendor cost plus \$63.00	\$70.00
D. Title Search	actual vendor cost plus \$31.00	\$34.00
E. Franchise Tax Board Offset (per offset)	\$110.00	\$122.00
F. DMV Renewal Hold	\$20.00	\$21.00
G. Personal Contact	actual vendor cost plus \$228.00	\$256.00
H. Seizure (per seizure)	\$113.00	\$122.00
I. Mileage		
1. Salinas Area	\$20.00	
2. North County, Seaside/Monterey Area	\$50.00	
3. Chualar/Gonzales Area	\$50.00	
4. Greenfield, King City, Big Sur Areas	\$100.00	

	<u>Current</u>	<u>Proposed</u>
J. Cost Charge – Second Installment Delinquency	\$20.00	
K. Tax Sale actual vendor cost plus	\$670.00	\$750.00
L. Auction Listing (per parcel)	\$10.00	
M. Reminder Notice Fee	\$1.70	

Section 3. Administrative Fees

Description

A. Bankruptcy Administration Fee (per case)	\$196.00	\$219.00
B. Bulk Transfer Administration Fee (per transfer)	\$57.00	\$64.00
C. Duplicate Mobile Home Tax Clearance	\$45.00	\$48.00
D. Payment Plans		
1. Unsecured & Escaped	\$156.00	\$173.00
2. Redemption	\$125.00	\$139.00
E. Application for Separate Valuation		
1. From 1 to 2 parcels	\$93.00	\$104.00
2. From 1 to 3 parcels	\$140.00	\$156.00
3. From 1 to 4 parcels	\$187.00	\$208.00
F. Auctioneer License		
1. Class A (annually)	\$75.00	
2. Class B (per day)	\$25.00	
3. Class C (annually)	\$75.00	
G. Business License		
1. Application	\$226.00	\$407.00
2. Annual Renewal	\$87.00	\$318.00
3. Duplicate License	\$34.00	\$84.00

Notice: Additional fees/fines/penalties imposed, set, and collected on behalf of the State of California pursuant to State Law may be applicable and are in addition to any of the above, ~~and the customer may be required to pay those charges. Those~~ These State charges are outside of the scope and jurisdiction of the County of Monterey to set as part of this County Master Fee Resolution and will be charged in addition to specified fees where applicable.

ARTICLE XV
TREASURER-TAX COLLECTOR
Effective October 25, 2022

Article XV – Fees of the Treasurer-Tax Collector’s Office

Section 1. General Fees

Description

	<u>Current</u>
A. Document Copies	
1. Computer print-out from Tax system (per item)	\$1.00
2. Non-computer copy (per item)	\$6.50
3. Certification of copy (per item in addition to above fee)	\$1.00
B. Research Fee (per hour, 1 hour minimum)	\$83.00
C. Returned Payment Fees	
1. Treasurer	\$43.00
2. Tax Collector	\$115.00
3. Revenue Division	\$115.00
D. Tax Roll on CD-ROM in Standardized format	
1. Secured Roll per request	\$316.00
2. Redemption Roll per request	\$191.00
E. Internet access to Tax Roll (per license per year)	\$770.00
F. Delinquent Tax Roll/Payment File Extraction (per month)	\$100.00
G. Emergency Request for Treasury Transfer of Funds (“Wire”)	\$108.00
H. Treasury Repetitive Reconciliation-(3 rd request to dept.)	\$107.00

Section 2. Collection Enforcement Fees

Description

A. Lien Fees	
1. Initial Recording	\$55.00
2. Release of Lien	\$55.00
3. Duplicate Release of Lien	\$21.00
4. Bond Breakout	\$38.00
B. Unsecured Delinquent Fee	10% of tax amount due
C. Legal Publications	actual vendor cost plus \$70.00
D. Title Search	actual vendor cost plus \$34.00
E. Franchise Tax Board Offset (per offset)	\$122.00
F. DMV Renewal Hold	\$21.00
G. Personal Contact	actual vendor cost plus \$256.00
H. Seizure (per seizure)	\$122.00
I. Mileage	
1. Salinas Area	\$20.00
2. North County, Seaside/Monterey Area	\$50.00
3. Chualar/Gonzales Area	\$50.00
4. Greenfield, King City, Big Sur Areas	\$100.00

	<u>Current</u>
J. Cost Charge – Second Installment Delinquency	\$20.00
K. Tax Sale	actual vendor cost plus \$750.00
L. Auction Listing (per parcel)	\$10.00
M. Reminder Notice Fee	\$1.70

Section 3. Administrative Fees

Description

A. Bankruptcy Administration Fee (per case)	\$219.00
B. Bulk Transfer Administration Fee (per transfer)	\$64.00
C. Duplicate Mobile Home Tax Clearance	\$48.00
D. Payment Plans	
1. Unsecured & Escaped	\$173.00
2. Redemption	\$139.00
E. Application for Separate Valuation	
1. From 1 to 2 parcels	\$104.00
2. From 1 to 3 parcels	\$156.00
3. From 1 to 4 parcels	\$208.00
F. Auctioneer License	
1. Class A (annually)	\$75.00
2. Class B (per day)	\$25.00
3. Class C (annually)	\$75.00
G. Business License	
1. Application	\$407.00
2. Annual Renewal	\$318.00
3. Duplicate License	\$84.00

Notice: Additional fees/fines/penalties imposed, set, and collected on behalf of the State of California pursuant to State Law may be applicable and are in addition to any of the above. These charges are outside of the scope and jurisdiction of the County of Monterey to set as part of this County Master Fee Resolution and will be charged in addition to specified fees where applicable.

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

Resolution No. _____

Adopt a Resolution amending Article XV of the)
Monterey County Master Fee Resolution)
effective October 25, 2022, authorizing new fees)
and adjusting existing fees for Treasurer-Tax)
Collector services and enforcement)
requirements.....)

THE MONTEREY COUNTY BOARD OF SUPERVISORS FINDS:

- A. Section 1.40.010 of Chapter 1.40 of Monterey County Code provides that all fees, penalties, refunds, reimbursements and charges of any kind by the County may be specified in the Monterey County Fee Resolution.
- B. The Treasurer-Tax Collector Department has user fees that are appropriate to specify in the Monterey County Master Fee Resolution, effective October 25, 2022.
- C. This action to adjust these fees and other charges to meet operational expenses is statutorily exempt from environmental review [Pub. Res. Code sec. 21080 subd. (b)(8)].
- D. Any and all adjustments to fees for services reflect no more than the actual and reasonable cost of the service or benefit received by the payor and burdened on the County. Any discount applicable to these surcharges have a minimum impact on the departmental budget and implementation of that discount does not result in increased fees or costs for other patrons.
- E. By definition, these charges are not a 'tax' and are exempt from voter approval pursuant to Article XIII C section 1(e)(1)-(3) of the California Constitution (Prop. 26; charges imposed for specific benefit conferred/privilege/service or product, and/or reasonable regulatory costs provided or granted to the payer).

THE MONTEREY COUNTY BOARD OF SUPERVISORS RESOLVES:

- I. Article XV of the Monterey County Fee Resolution is amended, and the Treasurer-Tax Collector Department fees set forth in the attachment hereto are hereby adopted.
- II. Unless otherwise specifically amended, all prior resolutions regarding such fees remain as previously approved and are unaffected by this action.
- III. The effective date of the fees approved in this Resolution is October 25, 2022.

PASSED AND ADOPTED on this _____ day of _____ 2022 by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, 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____ for the meeting on _____.

Dated:
File ID:
Agenda Item No.:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

**County of Monterey Treasurer-Tax Collector
Fiscal Year 2022-23 Fee Study**

Fee Schedule - Fiscal Year 2022-23					Fee Schedule - Fiscal Year 2017-18					Increased Costs by %		
CLASS CLASS TITLE		PER HR. S&B	Overhead Dept Avg per FTE*	PER HOUR RATE	CLASS CLASS TITLE		PER HR. ³ S&B	Overhead Dept Avg per FTE*	PER HOUR RATE	S&B PER HOUR	Overhead Dept Avg per FTE*	PER HOUR RATE
20B96	FINANCE SYSTEMS MANAGER	93.31	19.10	112.40	20B96	FINANCE SYSTEMS MANAGER	79.33	16.55	95.88	17.6%	15.4%	17.2%
14C31	MANAGEMENT ANALYST III	82.91	19.10	102.01	14C31	MANAGEMENT ANALYST III	74.36	16.55	90.91	11.5%	15.4%	12.2%
20B10	ACCOUNTANT I	55.05	19.10	74.15	20B10	ACCOUNTANT I	49.74	16.55	66.29	10.7%	15.4%	11.9%
20B11	ACCOUNTANT II	64.46	19.10	83.56	20B11	ACCOUNTANT II	57.88	16.55	74.43	11.4%	15.4%	12.3%
20B12	ACCOUNTANT III	77.50	19.10	96.60	20B12	ACCOUNTANT III	69.69	16.55	86.24	11.2%	15.4%	12.0%
14C45	CHIEF DEPUTY TTC - TAX ²	104.96	19.10	124.05	20B93	FINANCE MANAGER II ²	83.01	16.55	99.56	26.4%	15.4%	24.6%
20B95	FINANCE MANAGER I	86.51	19.10	105.60	20B95	FINANCE MANAGER I	77.46	16.55	94.01	11.7%	15.4%	12.3%
80J21	ACCOUNT CLERK	42.83	19.10	61.93	80J21	ACCOUNT CLERK	38.83	16.55	55.38	10.3%	15.4%	11.8%
80J22	SENIOR ACCOUNT CLERK	46.58	19.10	65.68	80J22	SENIOR ACCOUNT CLERK	42.11	16.55	58.66	10.6%	15.4%	12.0%
80J30	ACCOUNTING TECHNICIAN	50.37	19.10	69.47	80J30	ACCOUNTING TECHNICIAN	45.97	16.55	62.52	9.6%	15.4%	11.1%
14C45	CHIEF DEPUTY TTC - TREASURY ¹	104.96	19.10	124.05	14C45	TREASURY MANAGER ¹	92.56	16.55	109.11	13.4%	15.4%	13.7%
20B41	TREASURY OFFICER II	64.15	19.10	83.24	20B41	TREASURY OFFICER II	57.88	16.55	74.43	10.8%	15.4%	11.8%
										Avg. % per/hr.		13.6%

¹Treasury Mgr retitled "Chief Deputy TTC" - Treasury

²FM II Reallocated to Chief DTTC - Tax

³S&B FY 2017-18 S&B was calculated based on FY 2016-17 salary schedule.

*Overhead includes per FTE distribution of Internal Service Funds (ISF), service charges passed on by other departments, & prorated per-FTE S&B costs for TTC department's Exec Mgmt/Admin, Clerical, HR, and IT positions, prorated per budgeted FTE count. All positions calculated at top step, fully loaded.



Monterey County

Item No.36

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-900

September 27, 2022

Introduced: 9/15/2022

Current Status: General Government -
Consent

Version: 1

Matter Type: General Agenda Item

Receive a report that provides periodic updates on Cannabis Program performance indicators.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Receive a report that provides periodic updates on Cannabis Program performance indicators.

SUMMARY/DISCUSSION:

Since November 2019, the Cannabis Program (Program) prepared a memorandum providing updates on performance indicators to the Cannabis Committee (Committee). The format and indicators have been refined over time to provide the Committee with topical and timely information pertaining to the cannabis industry.

At the September 2022 Committee meeting, staff was directed to provide periodic updates on Cannabis Program performance indicators to the Board of Supervisors (Board). This direction aligns with Recommendation 14 made by Citygate & Associates within their Organizational Study of the Current Cannabis Program, which reads:

Modify reporting to the Administration and Board to provide a complete narrative on budget, revenue, and expenses; cannabis permit information; cannabis market information; and the enforcement of illicit grows.

In August 2022, staff received training that aligns with this recommendation and will improve reporting capabilities. Staff will continue to provide the Board with comprehensive and timely updates on performance indicators related to the Cannabis Program. Attached are the performance indicators. (Attachment A) These performance indicators will also be added to the Cannabis Program webpage.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel, Housing and Community Development, and Sheriff's Office were involved in the preparation of the report.

FINANCING:

Monterey County's Cannabis Program is funded in County Administrative Office - Department 1050,

Intergovernmental and Legislative Affairs Division - Unit 8533, Cannabis. The approval of this report and attachment will not incur additional expenses to the Program.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Monterey County Cannabis Program addresses each of the Strategic Initiative Policy Areas that promote the growth of a responsible and legal Monterey County cannabis industry.

Mark a check to the related Board of Supervisors Strategic Initiatives

- X Economic Development
- X Administration
- X Health & Human Services
- X Infrastructure
- X Public Safety

Prepared by: Joann Iwamoto, Program Manager II

Approved by: Nicholas E. Chiulos, Assistant CAO

Attachments:

A: Cannabis Program Performance Indicators as of September 2022



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-900

September 27, 2022

Introduced: 9/15/2022

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

Receive a report that provides periodic updates on Cannabis Program performance indicators.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Receive a report that provides periodic updates on Cannabis Program performance indicators.

SUMMARY/DISCUSSION:

Since November 2019, the Cannabis Program (Program) prepared a memorandum providing updates on performance indicators to the Cannabis Committee (Committee). The format and indicators have been refined over time to provide the Committee with topical and timely information pertaining to the cannabis industry.

At the September 2022 Committee meeting, staff was directed to provide periodic updates on Cannabis Program performance indicators to the Board of Supervisors (Board). This direction aligns with Recommendation 14 made by Citygate & Associates within their Organizational Study of the Current Cannabis Program, which reads:

Modify reporting to the Administration and Board to provide a complete narrative on budget, revenue, and expenses; cannabis permit information; cannabis market information; and the enforcement of illicit grows.

In August 2022, staff received training that aligns with this recommendation and will improve reporting capabilities. Staff will continue to provide the Board with comprehensive and timely updates on performance indicators related to the Cannabis Program. Attached are the performance indicators. (Attachment A) These performance indicators will also be added to the Cannabis Program webpage.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel, Housing and Community Development, and Sheriff's Office were involved in the preparation of the report.

FINANCING:

Monterey County's Cannabis Program is funded in County Administrative Office - Department 1050, Intergovernmental and Legislative Affairs Division - Unit 8533, Cannabis. The approval of this report

Legistar File Number: 22-900

and attachment will not incur additional expenses to the Program.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

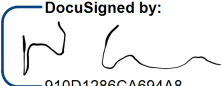
The Monterey County Cannabis Program addresses each of the Strategic Initiative Policy Areas that promote the growth of a responsible and legal Monterey County cannabis industry.

Mark a check to the related Board of Supervisors Strategic Initiatives

- X Economic Development
- X Administration
- X Health & Human Services
- X Infrastructure
- X Public Safety

Prepared by: Joann Iwamoto, Program Manager II

Approved by: Nicholas E. Chiulos, Assistant CAO

DocuSigned by:

910D1286CA694A8...

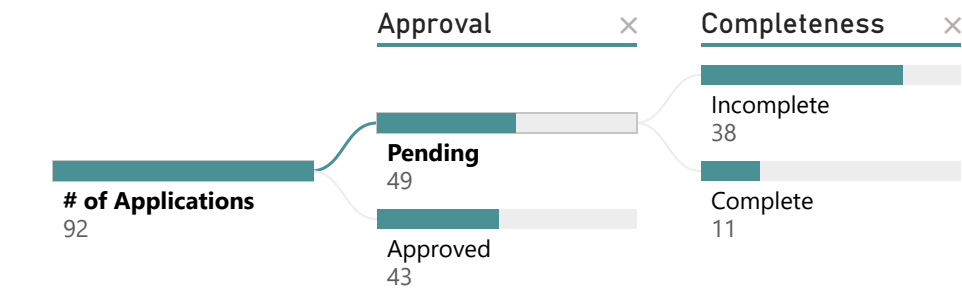
Attachments:

A: Cannabis Program Performance Indicators as of September 2022



Local Permit/License Overview

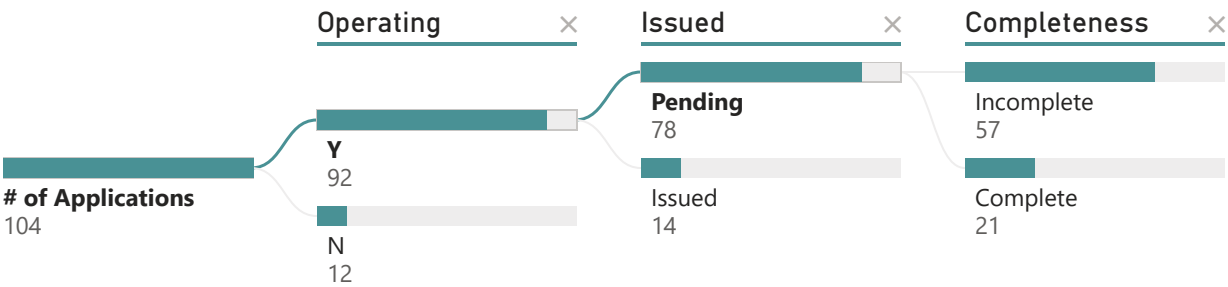
Cannabis Land Use Permit Applications



Approvals

Fiscal Year	# Approved
FY 17-18	2
FY 18-19	3
FY 19-20	8
FY 20-21	8
FY 21-22	22
Total	43

Cannabis Business Permit Applications



Issuances

Fiscal Year	# Issued
FY 17-18	3
FY 18-19	5
FY 19-20	2
FY 20-21	5
FY 22-23	2
Total	17

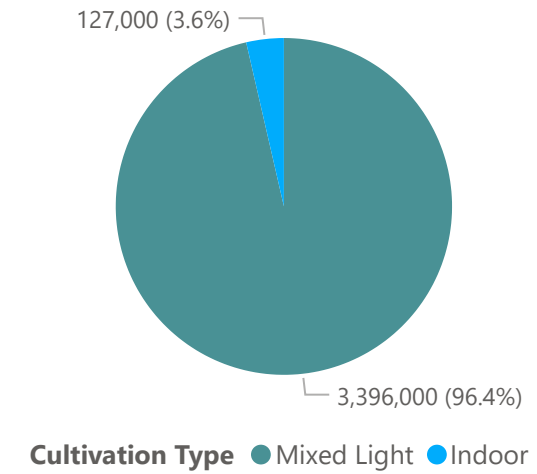


State Licensing Overview

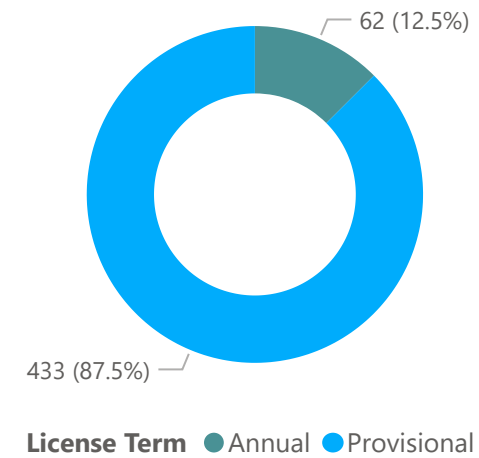
Active State Licenses

Category	# of
Cultivation	357
Nursery	46
Distribution	35
Processor	35
Manufacturing	11
Retail	9
Distribution (Transport Only)	2
Total	495

Licensed Cultivation Canopy Maximum by Type



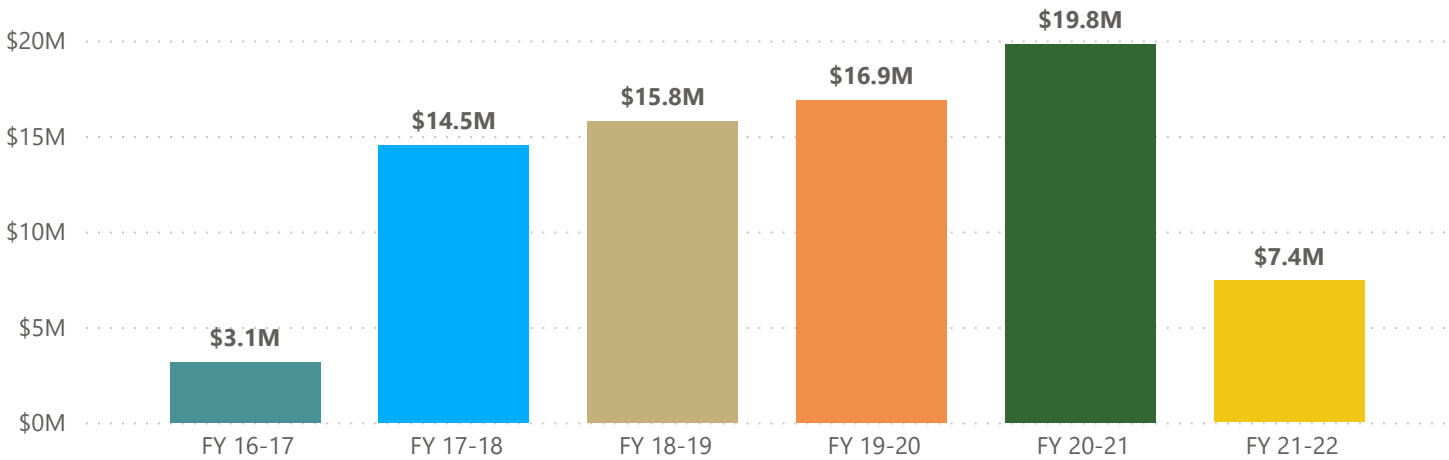
of Licenses by Term



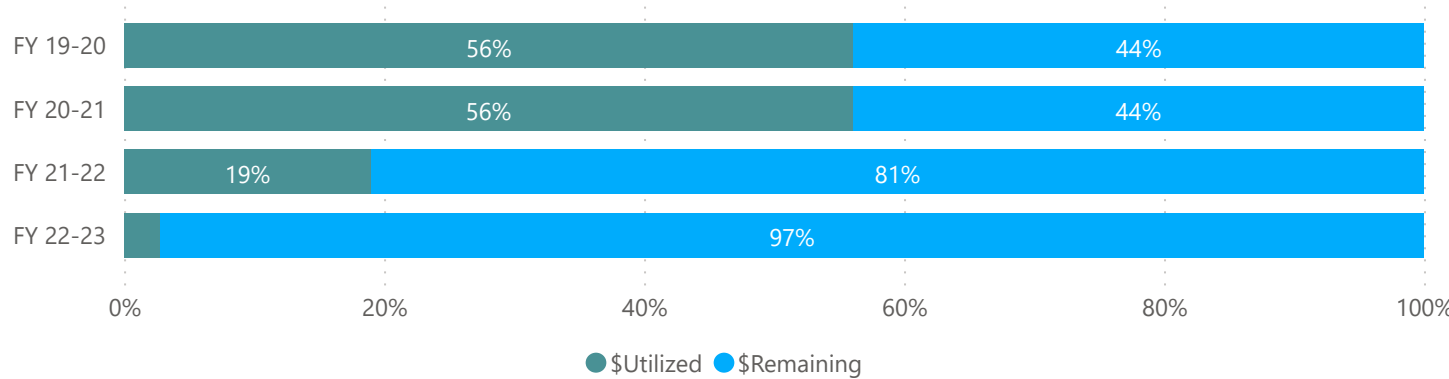


Cannabis Program Budget

Cannabis Tax Collected by Fiscal Year



Balance of Cannabis Program Contingency



Cannabis Tax Funded Allocations by Fiscal Year

Fiscal Year	FTE Count	Non-Staff Costs	Staff Costs	Total Costs
FY 16-17	3.00	\$108,138	\$120,353	\$228,491
Cannabis	3.00	\$108,138	\$120,353	\$228,491
FY 17-18	3.98	\$147,685	\$572,130	\$719,815
Cannabis	3.98	\$147,685	\$572,130	\$719,815
FY 18-19	19.48	\$1,035,521	\$2,700,413	\$3,735,934
Cannabis	19.48	\$1,035,521	\$2,700,413	\$3,735,934
FY 19-20	26.98	\$1,075,107	\$3,917,559	\$4,992,666
Cannabis	23.98	\$1,075,107	\$3,646,395	\$4,721,502
Non-Cannabis	3.00		\$271,164	\$271,164
FY 20-21	26.48	\$1,398,534	\$4,177,262	\$5,575,796
Cannabis	23.48	\$1,398,534	\$3,826,343	\$5,224,877
Non-Cannabis	3.00		\$350,919	\$350,919
FY 21-22	27.23	\$1,840,831	\$4,493,590	\$6,334,421
Cannabis	25.23	\$1,510,831	\$4,277,376	\$5,788,207
Non-Cannabis	2.00	\$330,000	\$216,214	\$546,214
FY 22-23	31.23	\$1,796,745	\$5,334,595	\$7,131,341
Cannabis	25.23	\$1,547,245	\$4,606,959	\$6,154,205
Non-Cannabis	6.00	\$249,500	\$727,636	\$977,136
Total		\$7,402,561	\$21,315,901	\$28,718,463

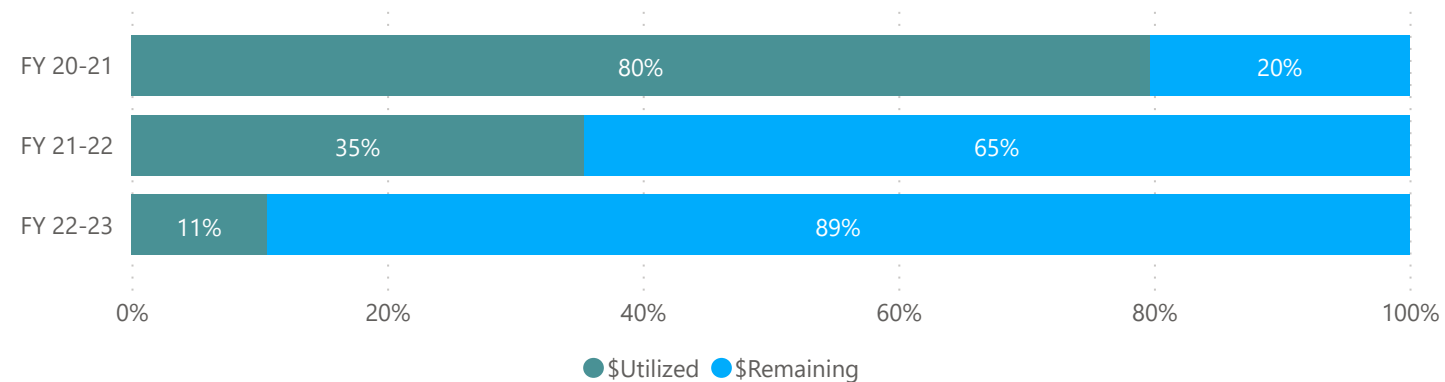


Unlicensed Enforcement

Outcomes of Search Warrant and Abatement Activities by Calendar Year

	2019	2020	2021	2022	Total
Cannabis Plants	31,938	32,888	18,602	97,703	181,131
Cannabis Processed (lbs)	3,981	5,476	1,716	38,430	49,603
Total Gross Weight of Destroyed Cannabis (tons)	18	19	10	68	115
Firearms	13	105	97	18	233
Currency	\$100,815	\$28,146	\$104,700	\$5,500	\$239,161
Explosive Material (lbs)				25	25
Meth (lbs)				1	1
Clandestine Lab	0	2	5		7
Wholesale Market Value of Product	\$35,919,000	\$38,364,000	\$15,238,500	\$68,066,500	\$157,588,000

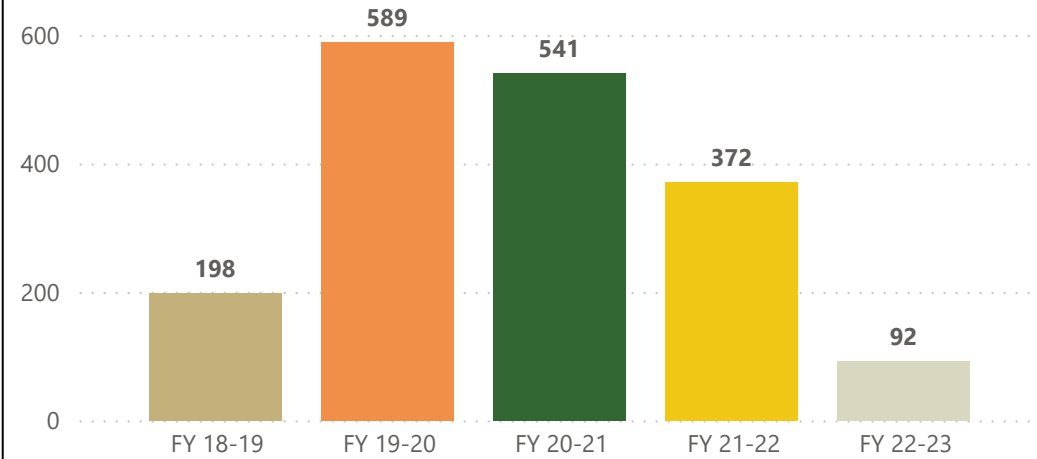
Balance of Allocation for Enforcement Against Unlicensed Cannabis Activity



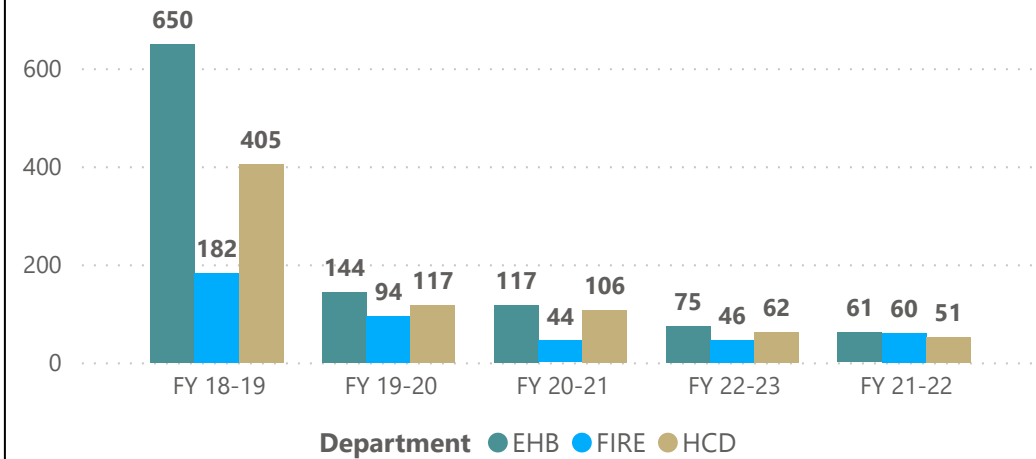


Compliance Inspections

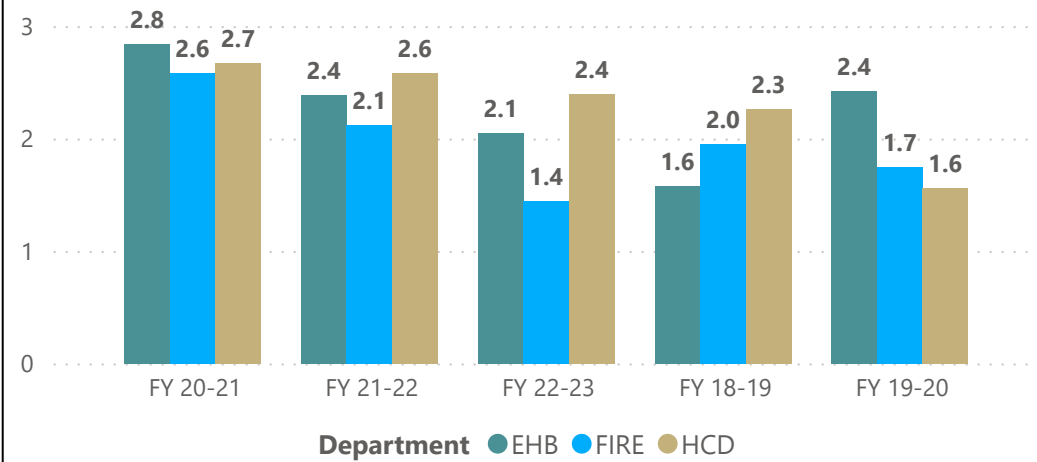
of Inspections Conducted by Fiscal Year



Average Time to Result (Hours)



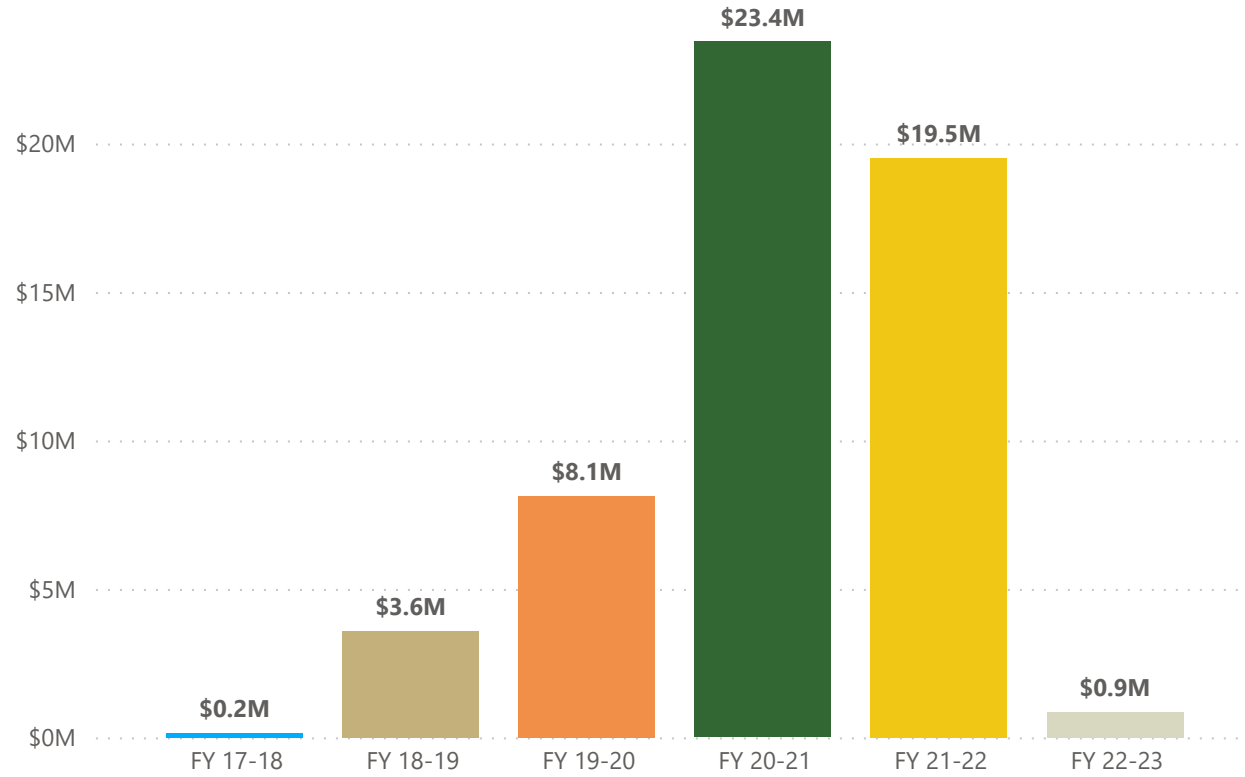
Average Inspection Duration (Hours)



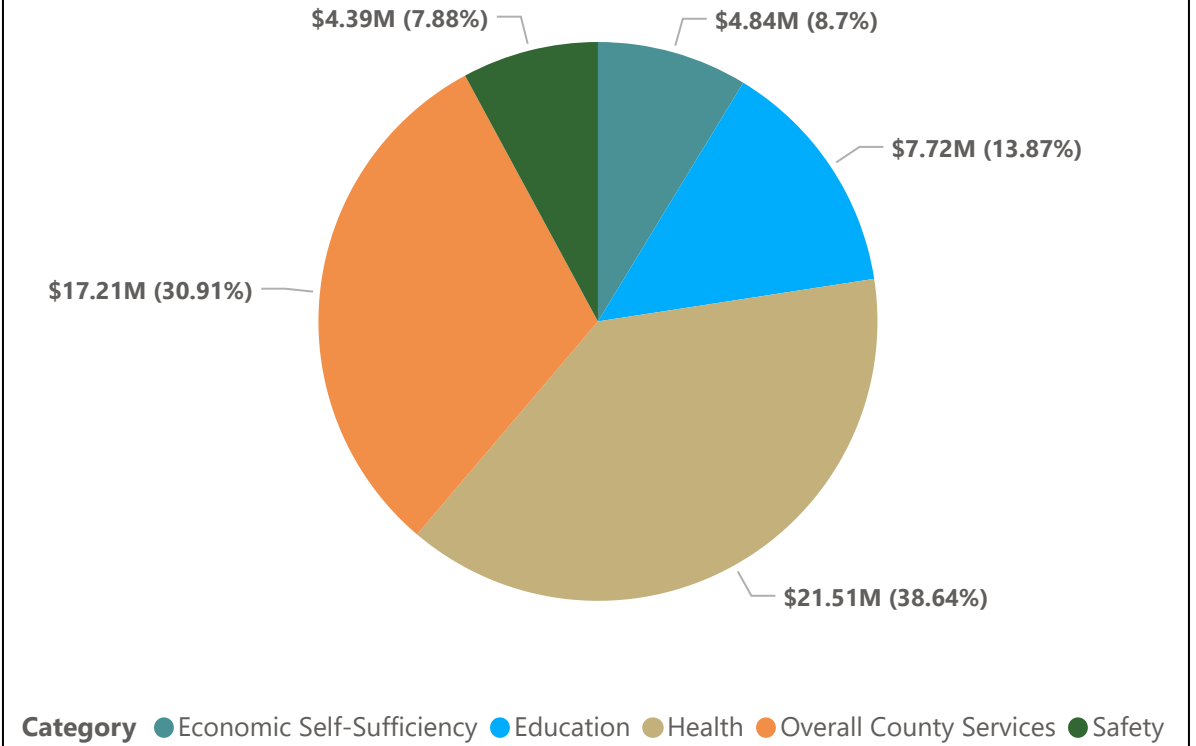


Cannabis Assignment Expenditures

Cannabis Assignment Expenditures by Fiscal Year



Cannabis Assignment Expenditures by Category





Industry Indicators

Annualized Cannabis Cultivation Figures

Fiscal Year	Canopy	Acreage	Cultivation Tax Revenue
FY 19-20	4,042,397	93	\$16,222,473
Indoor	91,100	2	\$728,799
Mixed Light	2,885,594	66	\$14,427,972
Nursery	1,065,703	24	\$1,065,703
FY 20-21	4,501,517	103	\$17,703,801
Indoor	94,056	2	\$752,448
Mixed Light	3,135,973	72	\$15,679,865
Nursery	1,271,488	29	\$1,271,488
FY 21-22	4,618,872	106	\$14,548,112
Indoor	83,786	2	\$628,173
Mixed Light	3,099,396	71	\$12,484,249
Nursery	1,435,690	33	\$1,435,690
FY 22-23	4,334,470	100	\$7,437,730
Indoor	89,965	2	\$269,896
Mixed Light	2,923,329	67	\$5,846,658
Nursery	1,321,176	30	\$1,321,176
Total			\$55,912,116

Business Closures

Reason for Closure	2019	2020	2021	2022	Total
Acquisition		1	2	1	4
Enforcement action	2		1		3
Insolvency		7	3	9	19
Operation never began		1	3	1	5
Total	2	9	9	11	31

Approved Canopy Modifications

Fiscal Year	Decrease	Increase	Total
FY 19-20	7	11	18
FY 20-21	2	22	24
FY 21-22	14	15	29
FY 22-23	1	4	5
Total	24	52	76

Cannabis Industry Workforce

Month	Year	# of Employees
July	2021	2,400
August	2022	2,000

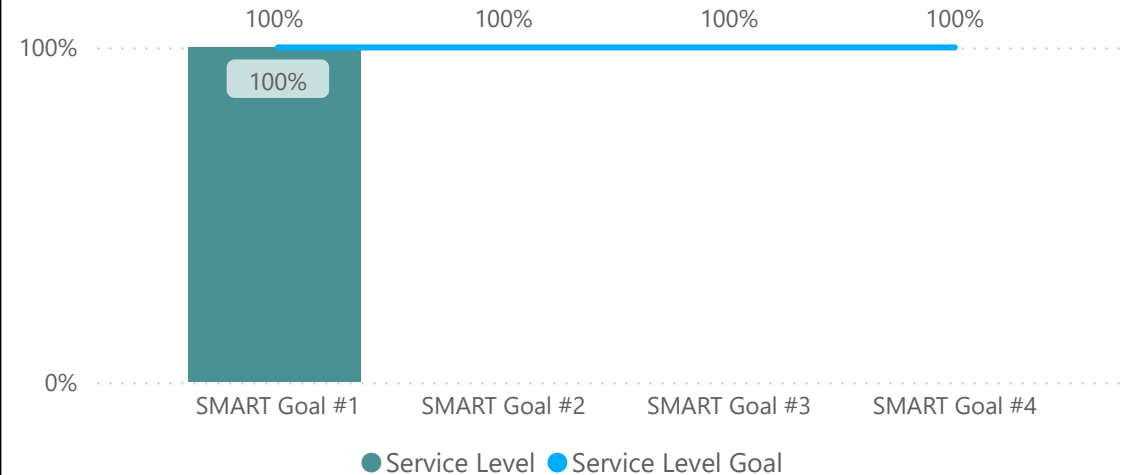
Monthly Wholesale Flower Pricing by Cultivation/Sales Type

Type	January	February	March	April	May	June	July
All Indoor							
# of Licensees	10	10	8	7	7	8	7
Price/Lb.	\$1,111	\$1,177	\$966	\$1,093	\$1,207	\$946	\$902
Volume (Lbs.)	1,303	1,370	612	613	472	794	843
All Mixed Light							
# of Licensees	21	19	18	15	22	17	16
Price/Lb.	\$442	\$471	\$410	\$439	\$430	\$393	\$365
Volume (Lbs.)	11,094	6,781	12,536	7,792	15,934	19,349	18,393
Cultivator (Indoor)							
# of Licensees	7	7	6	4	5	5	5
Price/Lb.	\$1,251	\$1,100	\$967	\$976	\$1,141	\$900	\$894
Volume (Lbs.)	577	628	412	386	388	619	567
Cultivator (Mixed Light)							
# of Licensees	1	1	1		1	1	
Price/Lb.	\$598	\$627	\$445		\$599	\$250	
Volume (Lbs.)	222	357	60		61	93	
Distributor (Indoor)							
# of Licensees	3	3	3	4	3	4	2
Price/Lb.	\$1,001	\$1,242	\$963	\$1,293	\$1,510	\$1,112	\$918
Volume (Lbs.)	726	742	201	227	84	175	276
Distributor (Mixed Light)							
# of Licensees	6	7	7	6	7	4	4
Price/Lb.	\$449	\$503	\$536	\$510	\$558	\$423	\$442
Volume (Lbs.)	3,770	2,677	3,332	3,755	3,410	2,681	3,617
Processor (Mixed Light)							
# of Licensees	14	11	10	9	14	12	12
Price/Lb.	\$434	\$434	\$363	\$372	\$394	\$389	\$347
Volume (Lbs.)	7,101	3,746	9,144	4,037	12,463	16,575	14,776



SMART Goals and Performance Measures

Cannabis Program SMART Goals and Service Levels, Q1 of FY 22-223



SMART Goal #1: Issuing a CBP

The Cannabis Program will issue a CBP within 3 business days of the Operator submitting a complete CBP Initial Application and satisfying departmental requirements, in addition to the Property Owner receiving a fully cleared Land Use Entitlement.

SMART Goal #2: Renewing a CBP

The Cannabis Program will renew CBPs within 3 business days of the Operator submitting a complete CBP Renewal Application and satisfying departmental requirements.

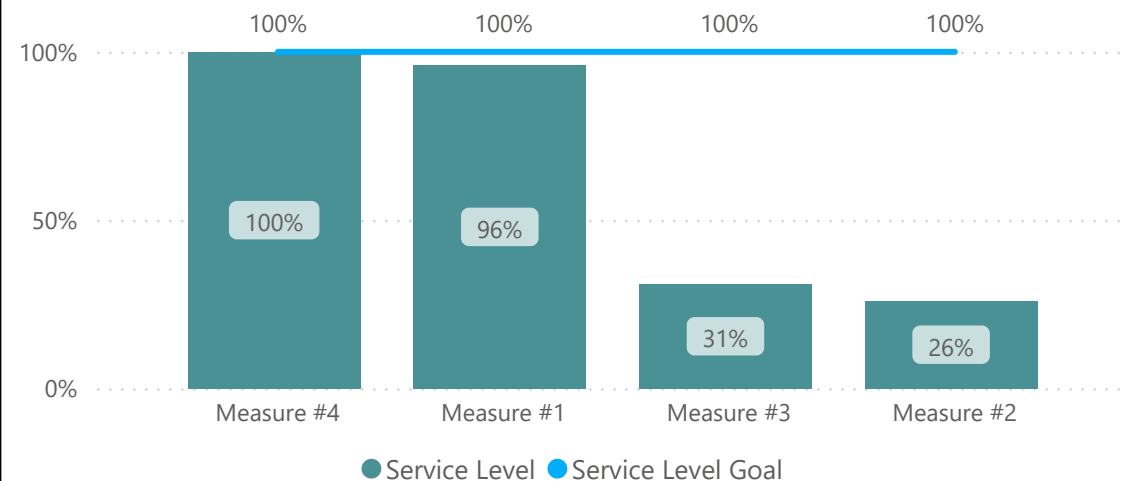
SMART Goal #3: Providing local authorization using the PCBP

No later than August 1, 2022, up to 100 Operators who have not obtained a CBP will be issued a Provisional CBP under Good Standing criteria expiring one year from its issuance date.

Draft SMART Goal #4: Providing renewal of the PCBP

The Cannabis Management Team will review outstanding requirements related to the Land Use Entitlement and the Cannabis Business Permit. Only those that have completed critical requirements and/or made significant progress to complete will be issued a one-time renewal of the PCBP expiring January 1, 2024 for Class A Provisional Cannabis Permittees and January 1, 2026 for Class B Provisional Cannabis Permittees.

HCD Key Performance Measures and Service Levels, Q4 of FY 21-22



Key Performance Measure #1: Building permit plan check

Housing and Community Development will complete the review of plans submitted with building permits within 6-8 weeks.

Key Performance Measure #2: Environmental Services permit plan review

Environmental Services permit plan review completed within 6-to-8-week timelines.

Key Performance Measure #3: Engineering Services permit plan review

Engineering Services permit plan review completed within 6-to-8-week timelines.

Key Performance Measure #4 Construction permit inspections

Housing and Community Development will complete construction permit inspections within one working day of the request.



Monterey County

Item No.37

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-904

September 27, 2022

Introduced: 9/19/2022

Current Status: General Government -
Consent

Version: 1

Matter Type: General Agenda Item

Adopt a Resolution to:

- a. Amend the County Counsel's Office - Budget Unit 1210-8407-Fund 001 -Appropriation Unit COU002 to reallocate one (1) Finance Manager I to one (1) Finance Manager II as indicated in Attachment A; and
- b. Direct the County Administrative Office to incorporate the position changes in the FY 2022-23 Adopted Budget.

RECOMMENDATION:

It is recommended that the Board of Supervisors take the following actions:

Adopt a Resolution to:

- a. Amend the County Counsel's Office - Budget Unit 1210-8407-Fund 001 -Appropriation Unit COU002 to reallocate one (1) Finance Manager I to one (1) Finance Manager II as indicated in Attachment A; and
- b. Direct the County Administrative Office to incorporate the position changes in the FY 2022-23 Adopted Budget.

SUMMARY/DISCUSSION:

The County Counsel's Office has partnered with the Human Resources Department to reallocate the Finance Manager I classification to more accurately capture actual job duties and tasks performed by the position. Through this partnership, it was learned that the essential job duties necessary to perform the work rises to higher level, outside the scope of the current allocated position of the Finance Manager I.

This position has evolved over the years as the business needs of the Department have changed and now handles an overall budget of \$49.6 million in the current FY 22-23. It is critical that the appropriate classification is allocated to perform complex financial job duties of this position. For these reasons, the County Counsel's Office requests support to reallocate the existing Finance Manager I position to more closely represent the actual job duties required.

OTHER AGENCY INVOLVEMENT:

The Human Resources Department has reviewed and approved the Requests to Classify (RTC). The Chair of the Budget Committee has approved proceeding directly to the Board of Supervisors.

FINANCING:

The salary and benefits increase for the remainder of FY 2022-23 is approximately \$20,627 and is anticipated to be absorbed within the departments existing appropriations.

Current estimates indicated the respective department will be able to absorb the fiscal impact of these base wage adjustments; however, if this should change in the future, the affected department will return to the Budget Committee to request an appropriation increase if needed.

BOARD OF SUPERVISORS' STRATEGIC INITIATIVES:

The proposed recommended actions address the Board of Supervisors Administration Strategic Initiative. The actions demonstrate the County's commitment to meeting the Board's initiatives in recruiting, retaining, and attracting a diverse, talented workforce that supports the mission of Monterey County.

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared By: Channelle Ceralde, Senior Personnel Analyst

Approved By: Leslie Girard, County Counsel

Attachment: Attachment A



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-904

September 27, 2022

Introduced: 9/19/2022

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

Adopt a Resolution to:

- a. Amend the County Counsel's Office - Budget Unit 1210-8407-Fund 001 -Appropriation Unit COU002 to reallocate one (1) Finance Manager I to one (1) Finance Manager II as indicated in Attachment A; and
- b. Direct the County Administrative Office to incorporate the position changes in the FY 2022-23 Adopted Budget.

RECOMMENDATION:

It is recommended that the Board of Supervisors take the following actions:

Adopt a Resolution to:

- a. Amend the County Counsel's Office - Budget Unit 1210-8407-Fund 001 -Appropriation Unit COU002 to reallocate one (1) Finance Manager I to one (1) Finance Manager II as indicated in Attachment A; and
- b. Direct the County Administrative Office to incorporate the position changes in the FY 2022-23 Adopted Budget.

SUMMARY/DISCUSSION:

The County Counsel's Office has partnered with the Human Resources Department to reallocate the Finance Manager I classification to more accurately capture actual job duties and tasks performed by the position. Through this partnership, it was learned that the essential job duties necessary to perform the work rises to higher level, outside the scope of the current allocated position of the Finance Manager I.

This position has evolved over the years as the business needs of the Department have changed and now handles an overall budget of \$49.6 million in the current FY 22-23. It is critical that the appropriate classification is allocated to perform complex financial job duties of this position. For these reasons, the County Counsel's Office requests support to reallocate the existing Finance Manager I position to more closely represent the actual job duties required.

OTHER AGENCY INVOLVEMENT:

The Human Resources Department has reviewed and approved the Requests to Classify (RTC). The Chair of the Budget Committee has approved proceeding directly to the Board of Supervisors.

FINANCING:

The salary and benefits increase for the remainder of FY 2022-23 is approximately \$20,627 and is

anticipated to be absorbed within the departments existing appropriations.

Current estimates indicated the respective department will be able to absorb the fiscal impact of these base wage adjustments; however, if this should change in the future, the affected department will return to the Budget Committee to request an appropriation increase if needed.

BOARD OF SUPERVISORS' STRATEGIC INITIATIVES:

The proposed recommended actions address the Board of Supervisors Administration Strategic Initiative. The actions demonstrate the County's commitment to meeting the Board's initiatives in recruiting, retaining, and attracting a diverse, talented workforce that supports the mission of Monterey County.

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared By: Channelle Ceralde, Senior Personnel Analyst

Approved By: Leslie Girard, County Counsel

Attachment: Attachment A

DocuSigned by:
Channelle Ceralde
D8653B680ACC4DA...

ATTACHMENT A**Reallocate Position**

County Counsel - Budget Unit 1210-8407-Fund 001 -Appropriation Unit COU002

	Class Code	Position Title	Position Number	Position Increase/Decrease	Revised Total FTE
From	20B95	Finance Manager I	001	(1.0)	0.0
To	20B93	Finance Manager II	001	1.0	1.0



Monterey County

Item No.38

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: MIN 22-098

September 27, 2022

Introduced: 9/20/2022

Current Status: General Government -
Consent

Version: 1

Matter Type: Minutes

Approve the Board of Supervisors of the Monterey County Draft Action Meeting Minutes for the following meeting date: Tuesday, September 20, 2022.

Monterey County

*Board of Supervisors Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901*



Meeting Minutes - Draft

Tuesday, September 20, 2022

9:00 AM

Board of Supervisors

*Chair Supervisor Mary L. Adams - District 5
Vice Chair Supervisor Luis A. Alejo - District 1
Supervisor John M. Phillips - District 2
Supervisor Chris Lopez - District 3
Supervisor Wendy Root Askew - District 4*

9:00 A.M. - Called to Order

The meeting was called to order by Chair Supervisor Mary L. Adams.

Roll Called

Present: 5 - Supervisor Mary L. Adams, Supervisor Wendy Root Askew and Supervisor John M. Phillips appeared in person, and Supervisor Chris Lopez and Supervisor Luis A. Alejo, appeared via video conference

Staff Present

Charles McKee, County Administrative Officer, Les Girard, County Counsel and Valerie Ralph, Clerk of the Board appeared in person.

Additions and Corrections for Closed Session by County Counsel

There were no additions or corrections to closed session.

Closed Session

1. Closed Session under Government Code section 54950, relating to the following items:
 - a. Pursuant to Government Code section 54957.6, the Board will provide direction to negotiators:
 - (1) Designated representatives: Irma Ramirez-Bough and Ariana Hurtado
Employee Organization(s): All Units
 - (2) Designated representatives: Irma Ramirez-Bough and Ariana Hurtado
Employee Organization(s): Units R, S and X
 - (3) Designated representatives: Irma Ramirez-Bough and Ariana Hurtado
Employee Organization(s): Units F, H, J, K, R, S and X
 - (4) Designated representatives: Irma Ramirez-Bough and Ariana Hurtado
Employee Organization(s): Units F and J
 - (5) Designated representatives: Irma Ramirez-Bough and Ariana Hurtado
Employee Organization(s): Units F, H, J, K, R, S, X, Z, ZX and U
 - b. Pursuant to Government Code section 54956.9(d)(1), the Board will confer with legal counsel regarding existing litigation:
 - (1) Rosa Quintero (Workers' Compensation Appeals Board No. ADJ11048989)
 - (2) Rosa Quintero (Workers' Compensation Appeals Board No. ADJ11048990)
 - (3) Rosa Quintero (Workers' Compensation Appeals Board No. ADJ7928315)
 - (4) *Nacimiento Regional Water Management Advisory Committee v. Monterey County Water Resources Agency, et al.* (San Luis Obispo County Superior Court Case No. 19CVP-0010)
 - (5) *SEIU Local 521 v. County of Monterey, et al.* (State of California Public Employment Relations Board Case No. SF-CE-1961-M)
 - c. Pursuant to Government Code section 54956.9(d)(2), the Board will confer with legal counsel

regarding one matter of significant exposure to litigation.

d. Pursuant to Government Code section 54957(b)(1), the Board will confer regarding discipline, dismissal, or release of a public employee.

Public Comments for Closed Session

Open for public comments; Bill Lipe, in person, commented.

The Board Recessed for Closed Session Agenda Items

10:30 A.M. - Reconvened on Public Agenda Items

Roll Called

Present: 4 - Supervisor Mary L. Adams and Supervisor Wendy Root Askew, appeared in person, and Supervisor Chris Lopez and Supervisor Luis A. Alejo, appeared via video conference

Absent: 1 - Supervisor John M. Phillips

Staff Present

Charles McKee, County Administrative Officer, Les Girard, County Counsel and Valerie Ralph, Clerk of the Board appeared in person.

Announcement of Interpreter

Diego Celis, Spanish Interpreter present and announced Spanish interpreter services.

Pledge of Allegiance

The Pledge of Allegiance led by Angie Ortega, Director of Parents of Murder Victims.

Additions and Corrections by Clerk

Due to the need for immediate consideration by the Board of matters which arose after the posting of today's agenda, as provided in Section 54954.2 of the California Government Code the Board is asked to make the following addition and correction.

The following was recited into the record:

Correction to Item No. 19 under Criminal Justice Consent Calendar:

Due to technical inadvertence Attachment A and the Resolution did not publish with the agenda, however, are now published.

Ceremonial Resolutions

Open for public comments; no public comments made.

A motion was made by Supervisor Chris Lopez, seconded by Supervisor Luis A. Alejo to adopt

Ceremonial Resolutions 2 through 4.**Roll call vote taken pursuant to Government Code 54953:****Supervisor Alejo: AYE****Supervisor Phillips: Absent****Supervisor Lopez: AYE****Supervisor Root Askew: AYE****Chair Supervisor Adams: AYE**

2. Adopt a resolution Designating National Day of Remembrance for Murder Victims on September 25th, 2022 in Monterey County. (Supervisor Adams)

Adopted Resolution No. 22-358

3. Adopt a resolution in honor and recognition of Judge Robert O'Farrell for his dedicated service to the County of Monterey. (Supervisor Adams)

Adopted Resolution No. 22-357

4. Adopt a resolution Commending Sergeant Erika Gabriela Barrera upon her retirement from thirty-two years of public service with the Monterey County Sheriff's Office. (Supervisor Adams)

Adopted Resolution No. 22-356**Approval of Consent Calendar – (See Supplemental Sheet)**

5. See Supplemental Sheet

Open for public comments; no public comments made.

A motion was made by Supervisor Wendy Root Askew, seconded by Supervisor Mary L. Adams to approve Consent Calendar Item Numbers 12 through 27.

Roll call vote taken pursuant to Government Code 54953:**Supervisor Alejo: AYE****Supervisor Phillips: Absent****Supervisor Lopez: AYE****Supervisor Root Askew: AYE****Chair Supervisor Adams: AYE****General Public Comments**

6. General Public Comments

Open for general public comments for items not on today's agenda; Robert Vandersize, in person, commented.

Scheduled Matters

7. Adopt Resolution to:
Confirm the appointment of Mr. Douglas Southard as Interim Deputy Director of Social Services.

Lori Medina, Director of Social Services, in person, verbally presented.

Open for public comments; no public comments made.

A motion was made by Supervisor Wendy Root Askew, seconded by Supervisor Chris Lopez to: Adopt Resolution No. 22-359 confirming the appointment of Mr. Douglas Southard as Interim Deputy Director of Social Services.

Roll call vote taken pursuant to Government Code 54953:

Supervisor Alejo: AYE

Supervisor Phillips: Absent

Supervisor Lopez: AYE

Supervisor Root Askew: AYE

Chair Supervisor Adams: AYE

Supervisor John M. Phillips was present for Closed Session during the lunch hour

12:00 P.M. - Recessed to Lunch back into Closed Session

1:30 P.M. - Reconvened

Roll Called

Present: 5 - Supervisor Mary L. Adams, Supervisor Wendy Root Askew and Supervisor John M. Phillips appeared in person, and Supervisor Chris Lopez and Supervisor Luis A. Alejo, appeared via video conference

Staff Present

Charles McKee, County Administrative Officer, Les Girard, County Counsel and Valerie Ralph, Clerk of the Board appeared in person.

Announcement of Interpreter

Diego Celis, Spanish Interpreter present and announced Spanish interpreter services.

Scheduled Matters

8. Hold a regional water forum to provide an overview of current efforts regarding water management and sustainability, and to initiate a comprehensive discussion on regional water supplies and solutions in northern Monterey County.

Brent Buche, Monterey County Water Resources Agency and Donna Meyers, Salinas Valley Basin Groundwater Sustainability Agenda, both in person, presented via PowerPoint presentation.

State Federal Legislative Perspectives and Resources, in person, made comments:

- Congressman Panetta represented by District Director Susie Brusa
- Senator John Laird
- Senator Anna Caballero represented by District Director Anna Velazquez; and

- Assemblymember Robert Rivas

Water Agency and Regulated Utility, in person and via Zoom, provide perspectives:

- Monterey County Water Resources Agency – Brent Buche in person
- Salinas Valley Groundwater Sustainability Agency – Donna Meyers in person
- Monterey One Water – Paul Sciuto in person
- Marina Coast Water District/MCWD Groundwater Sustainability Agency – Rem Scherzinger in person
- Monterey Peninsula Water Management District – Dave Stoldt via Zoom
- Castroville Community Services District – Eric Tynan in person
- Seaside Groundwater Sustainability Agency – Paul Bruno via Zoom
- Arroyo Seco Groundwater Sustainability Agency – Curtis Weeks in person
- California Water Service – Brenda Granillo for Ken Jenkins, Chief Water Resource Sustainability Officer via Zoom
- California American Water – Chris Cook in person; and
- Alco Water Service – Tom Adcock via Zoom

Open for public comments; Norm Groot, Christopher Bunn, John Tilley, Adam Pinterits, Marc Del Piero, Geroqe Riley, Christine Saling, Marla Anderson, Jon McPherson, and Jan Schiener, all in person, and Kathy Biala, Melodie Chrislock, Kevin Dayton, Margaret Ann Carbonel, Douglas Deitch, Liesbeth Visscher, Glenn Church, Brian Lockwood, Brian McCarthy, and Susan Schiavine, via Zoom, commented.

Board of Supervisors comments:

- District 1 - Supervisor Luis A. Alejo via Zoom
- District 2 - Supervisor John M. Phillips in person
- District 3 - Supervisor Chris Lopez via Zoom
- District 4 - Supervisor Wendy Root Askew in person; and
- District 5 - Supervisor Mary L. Adams in person

Upon consensus the Board:

Held a regional water forum to provide an overview of current efforts regarding water management and sustainability, and to initiate a comprehensive discussion on regional water supplies and solutions in northern Monterey County.

Other Board Matters

County Administrative Officer Comments

9. County Administrative Officer Comments

Charles McKee, County Administrative Officer comments can be heard by clicking the following link:

http://monterey.granicus.com/EditFile.php?clip_id=4645

New Referrals

10. New Referrals

Charles McKee, County Administrative Officer shared there is one new referral this week:

Referral No. 2022.19

Submitted By: Supervisor Lopez District #: 3

Referral Title: Joining Chamber of Commerce in Our Community

Referral Purpose: Determine the possibility of the County of Monterey joining the Salinas Valley, Monterey Peninsula, and King City Chambers of Commerce.

Open for public comments; no public comments made.

Board Comments

11. Board Comments

Board Comments can be heard by clicking the following link:

http://monterey.granicus.com/EditFile.php?clip_id=4645

Read Out from Closed Session by County Counsel

Les Girard, County Counsel shared the Board of Supervisors authorized staff to apply for programs adopted with recent legislation under the California Department of Health Care Services to provide state funded stabilization bonuses to eligible hospital and clinic employees.

Adjourned

The meeting was adjourned at 4:56 p.m. by Chair Supervisor Mary L. Adams.

Supplemental Sheet, Consent Calendar**Natividad Medical Center**

12. Adopt Resolution to:
- Amend the Natividad FY 2022-23 Adopted Budget Unit 9600-8142 - Fund 451 - Appropriation Unit NMC001 to add one (1.0) FTE allocation of Health Education Assistant as indicated in Attachment A;
 - Authorize the County Administrative Office and the Auditor-Controller to incorporate the approved position changes in the FY 2022-23 Adopted Budget and the Human Resources Department to implement the changes in the Advantage HRM System.

Adopted

13. a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute an agreement with UKG Inc. for human resources, payroll, and workforce management software and support services at NMC for an amount not to exceed \$1,991,920 with an agreement term of October 1, 2022 through September 30, 2027.
- b. Authorize the Chief Executive Officer for NMC or his designee to execute up to three (3) future amendments to the agreement which do not significantly alter the scope of work and do not cause an increase of more than ten percent (10%) (\$199,192) of the original cost of the agreement.
- c. Approve the NMC Chief Executive Officer's recommendation to accept non-standard indemnification, insurance, limitations on liability, and limitations on damages provisions within the agreement.

Approved**Health Department**

14. a. Authorize the Director of Health or Assistant Director of Health to execute an Agreement between the County of Monterey and the University Corporation at Monterey Bay (CSUMB) for the term September 26, 2022 to May 30, 2023 in the amount not to exceed \$49,999 to conduct the grant's evaluation and implement the reduction of COVID-19's disparate impact on vulnerable residents and advance health equity; and
- b. Approve the recommendation of Director of Health to accept all non-standard provisions in Agreement, including indemnification; and
- c. Approve and authorize the Director of Health or the Assistant Director of Health to sign up to three (3) future amendments to this Agreement where the total amendments do not exceed ten percent (10%) (\$4,999) of the original contract amount and do not significantly change the scope of work.

Approved

15. a. Approve and Authorize the Director of Health or the Assistant Director of Health to execute a Facilities Agreement between the County of Monterey and Rentokil North America, Inc. DBA Western Exterminator Co. for a retroactive term of May 10, 2022 to July 31, 2024 for the provision of

monthly extermination and exclusion services within the designated HVAC Cage units at 299 12th St., Marina, Ca. 93933 in the amount of \$18,241 for Fiscal Years (FY) FY 2022-23 FY 2023-24, for a total Agreement amount not to exceed \$18,241; and

b. Authorize the Director of Health or the Assistant Director of Health to sign up to two (3) future amendments to this Agreement where the total amendments do not exceed ten percent (10%) (\$1,824) of the original contract amount and do not significantly change the scope of work.

Approved

16. a. Approve and authorize the Director of Health or Assistant Director of Health to execute a Renewal and Amendment No. 5 to Mental Health Services Agreement A-14355 with Seneca Family of Agencies dba Kinship Center for the provision of mental health services, retroactive to July 1, 2022, to extend the term for one (1) additional fiscal year and add \$5,949,702 of additional services, for a revised total Agreement amount not to exceed \$19,274,021 for a new term of July 1, 2019 through June 30, 2023; and
- b. Approve and authorize the Director of Health or Assistant Director of Health to approve up to one (1) future amendment that does not exceed ten percent (10%) (\$1,927,402) of the revised Agreement amount and does not significantly change the scope of work.

Approved

17. a. Approve and authorize the Contracts/Purchasing Officer or designee to execute Amendment No. 5 with Bayside Oil II, Inc., amending Exhibit B to reflect changes to Collection Centers for used oil and filter collection, hauling, and recycling; and
- b. Authorize changes to Exhibit B as needed specific to Collection Center additions or deletions.

Approved

Department of Social Services

18. Approve and authorize the Director or Assistant Director of the Department of Social Services to sign a funding Agreement with the California Department of Aging in the amount of \$973,557 for services to seniors retroactive to July 1, 2022, for the term of July 1, 2022 through December 31, 2024, and to sign any and all amendments to the Agreement.

Approved

Criminal Justice

19. a. Adopt Resolution to amend Probation Department's (2550-8164-PRO001) Adopted Budget to reallocate one (1) vacant Laundry Worker I position to one (1) Building Maintenance Worker position as indicated in Attachment A; and
- b. Direct the County Administrative Office and Auditor-Controller to incorporate approved position changes in the FY2022-2023 Adopted Budget.

Adopted**General Government**

20. a. Approve and authorize the Chief Information Officer to sign a non-standard Radio Site Lease Agreement with the Heartland Mark, LLC - Pinball Site commencing September 20, 2022, and automatically self-renew each year on August 31 of that fiscal year unless amended and/or increasing annually based on the Cost-of-Living Adjustment (COLA) index; and
- b. Accept non-standard provisions as recommended by the Chief Information Officer; and
- c. Authorize the Chief Information Officer or designee to execute up to two (2) future amendments, subject to County Counsel review, provided the amendments do not significantly change the scope of work and do not alter the non-standard terms of the Radio Site Lease Agreement.

Approved

21. a. Approve and authorize the Chief Information Officer to execute a non-standard Service Agreement with Gartner, Inc., for the period of October 1, 2022, through September 30, 2025, for the provision of information technology advisory services in an amount not to exceed \$642,242; and
- b. Accept non-standard provisions in the Service Agreement as recommended by the Chief Information Officer; and
- c. Authorize the Chief Information Officer, or his designee, to execute order forms and such documents as are necessary to implement the Agreement; and
- d. Authorize the Chief Information Officer, or his designee, to execute up to two (2) future amendments, subject to County Counsel review, to extend services by one (1) year per amendment and to allow for ten percent (10%) annual increase per year provided the amendments do not significantly change the terms of the Agreement, including non-standard terms approved by the Board.

Approved

22. Adopt a Resolution to:
- a. Amend Personnel Policies and Practices Resolution (PPPR) No. 98-394 Appendix A to adjust the base wage salary ranges of the Communications Dispatcher I/II, Emergency Communications Shift Supervisor, and Emergency Communications Operations Supervisor classifications as indicated in Attachment A;
- b. Direct the Human Resources Department to implement the changes in the Advantage HRM system.

Adopted

23. Adopt Resolution to:
- a. Amend the Personnel Policies and Practices Resolution No. 98-394 to modify Section A.9.1.2 Standby to add the Cardiac Sonographer Per Diem classification to the list of classifications in the Diagnostic Imaging Department who receive standby pay; and
- b. Authorize the Human Resources Department and Auditor Controller's Office to implement the changes.

Adopted

- 24.** Approve the Board of Supervisors of the Monterey County Draft Action Meeting Minutes for the following meeting date: Tuesday, September 13, 2022.

Approved

- 24.1** Approve an amendment to the South Salinas Valley Broadband Authority Joint Powers Agreement to facilitate the Authority's ability to execute a contract with the Golden State Connect Authority.
ADDED VIA ADDENDA

Approved**Public Works, Facilities and Parks**

- 25.** Approve and authorize the Monterey County Laguna Seca Representative to:
- a. Execute Amendment No. 1 to the Standard Agreement with Star Sanitation, LLC to continue to provide fence rental and services for WeatherTech® Raceway at Laguna Seca, Request for Proposals #10715, to update the provisions and increase the not-to-exceed Agreement amount by \$85,000, for a total amount not to exceed of \$185,000, with no change to the term of March 28, 2019 through March 27, 2024; and
 - b. Execute future amendments to the Agreement where the total amendments do not exceed ten percent (10%), or \$18,500, of the total agreement amount and do not significantly alter the scope of work, subject to County Counsel approval.

Approved

- 26.** Approve and Authorize the Public Works, Facilities, and Parks Director to execute an Agreement for a Temporary Construction Easement between the County of Monterey and Melanie S. Wong, Successor Trustee of the William H. Wong and Ruth J. Wong Trust and Lancelot L. Dong, Co-Manager of Dong Family Enterprises, LLC, doing business as Sanborn Medical Center, Property Owner(s) at 323 N. Sanborn, California, also referenced as Assessor's Parcel Number 004-601-027, for a Temporary Construction Easement for the construction of the 331 Sanborn Alisal Integrated Health Center, Project No. 1701.

Approved

- 27.** Adopt a Resolution to:
- a. Amend the Public Works, Facilities and Parks Department (PWFP) Fund 002, Budget Unit 8558 - Appropriation Unit PFP004 to reallocate one (1) Civil Engineer to one (1) Capital Improvement Manager as indicated in Attachment A;
 - b. Amend the Public Works, Facilities and Parks Department (PWFP) Fund 002, Budget Unit 8558 - Appropriation Unit PFP004 to reallocate one (1) Assistant Engineer to one (1) Engineering Technician as indicated in Attachment A; and
 - c. Direct the County Administrative Office and the Auditor-Controller to incorporate the approved

position changes in the Fiscal Year (FY) 2022-23 Adopted Budget.

Adopted

Please refer to the Board Orders for the approved and adopted Agreement, Resolution and Ordinance numbers.

ADDENDA

28. Addenda/Supplemental

Attachment Added

24. Approve the Board of Supervisors of the Monterey County Draft Action Meeting Minutes for the following meeting date: Tuesday, September 13, 2022.

Added Under General Government - Consent

24.1. Approve an amendment to the South Salinas Valley Broadband Authority Joint Powers Agreement to facilitate the Authority's ability to execute a contract with the Golden State Connect Authority.



Monterey County

Item No.39

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-496

September 27, 2022

Introduced: 9/8/2022

Current Status: Housing & Community
Development - Consent

Version: 1

Matter Type: BoS Agreement

- a. Approve retroactively a Renewal and Amendment No. 9 to Agreement A-12442 with Denise Duffy & Associates, Inc., (CONTRACTOR) to extend the term of the Agreement seventeen (17) months to December 31, 2023, with a retroactive start date of July 1, 2022 for the Carmel Lagoon Project (REF 120051);
- b. Approve redistribution of funds from Task 8.7, Additional Services, in the amount of \$5,242 to Task 8.4, Additional Technical Studies, subtasks 8.4.1 and 8.4.4 in the amounts of \$1,693 and \$3,549, respectively; and
- c. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute: 1) Renewal and Amendment No. 9 to Professional Services Agreement No. A-12442 and 2) future amendments to Professional Services Agreement A-12442 to extend the term beyond the original term authorized in Request for Proposals #2012-CRL-1 where the amendments do not significantly alter the scope of work or increase the amount by more than 10%, subject to County Counsel approval.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve retroactively a Renewal and Amendment No. 9 to Agreement A-12442 with Denise Duffy & Associates, Inc., (CONTRACTOR) to extend the term of the Agreement seventeen (17) months to December 31, 2023, with a retroactive start date of July 1, 2022 for the Carmel Lagoon Project (REF 120051);
- b. Approve redistribution of funds from Task 8.7, Additional Services, in the amount of \$5,242 to Task 8.4, Additional Technical Studies, subtasks 8.4.1 and 8.4.4 in the amounts of \$1,693 and \$3,549, respectively; and
- c. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute: 1) Renewal and Amendment No. 9 to Professional Services Agreement No. A-12442 and 2) future amendments to Professional Services Agreement A-12442 to extend the term beyond the original term authorized in Request for Proposals #2012-CRL-1 where the amendments do not significantly alter the scope of work or increase the amount by more than 10%, subject to County Counsel approval.

SUMMARY/DISCUSSION:

The County of Monterey Housing and Community Development Department (HCD) is the lead agency for the Carmel Lagoon Project located within and adjacent to the Carmel River State Beach and Lagoon between State Route (SR) 1 and the Pacific Ocean in the unincorporated area of Carmel, Monterey County, California. The Project is a multi-objective, multi-year, multi-organizational effort

to improve habitat for threatened and endangered species in the lower Carmel River and Lagoon, improve natural floodplain function, and protect public infrastructure, while maintaining or improving flood risk to existing developed areas. Professional Services Agreement (PSA) A-12442 was entered into on May 1, 2013, with Denise Duffy & Associates, Inc. (DDA) for work to complete the Carmel Lagoon Project EIR.

PSA A-12442 expired on June 30, 2022. With approval of this Amendment 9 the term of the agreement will be extended to December 31, 2023, to allow the contractor sufficient time to complete tasks associated with the Carmel Lagoon EIR Project. The total not to exceed amount of \$1,547,252.82 will not change with Amendment 9. There are sufficiently budgeted funds to cover expected invoices for work done by DDA within contract renewal period.

If approved, Amendment 9 will also reassign \$5,242 in available funds from Task 8.7 to Task 8.4. Task 8.4, Additional Technical Studies, regarding the evaluation of the natural stream alignment and sediment transport analysis have been completed at \$5,242 over budget. Task 8.7, Additional Services, has available excess funds, and the transfer of those funds to Task 8.4 would rebalance the budget. There would be no change to the not to exceed amount of \$1,547,252.83.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and the Auditor-Controller's Office have reviewed and approved Renewal and Amendment No. 9 as to form and legality, and fiscal provisions, respectively.

FINANCING:

There are no additional costs associated with the redistribution of funds within the Agreement. The project is currently budgeted in Fund 404, Unit 8564, Appropriation Unit PFP057, for Fiscal Year 2023 with a budget of \$428,370.28.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Approval of Renewal and Amendment No. 9 advances the Board of Supervisors' Infrastructure and Public Safety Strategic Initiatives by facilitating the planning and development of sustainable infrastructure that will balance environmental protection with maintaining flood protection for lagoon-area properties and public infrastructure. The technical studies and on-going environmental review for the Project continues to advance the Project toward implementation.

- ☐ Economic Development
- ☐ Administration
- ☐ Health & Human Services
- ☒ Infrastructure
- ☒ Public Safety

Prepared by: Shandy Carroll, Management Analyst III, 784-5643

Approved by: Melanie Beretti, AICP, Principal Planner, 755-5285

Approved by: Erik V. Lundquist, AICP, Director, 755-5025

The following attachments are on file with the Clerk of the Board:

Attachment 1 - Renewal and Amendment No. 9

Attachment 2 - Amendment No. 8

Attachment 3 - Amendment No. 7

Attachment 4 - Amendment No. 6

Attachment 5 - Amendment No. 5

Attachment 6 - Amendment No. 4

Attachment 7 - Amendment No. 3

Attachment 8 - Amendment No. 2

Attachment 9 - Amendment No. 1

Attachment 10 - Agreement



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-496

September 27, 2022

Introduced: 9/8/2022

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Approve retroactively a Renewal and Amendment No. 9 to Agreement A-12442 with Denise Duffy & Associates, Inc., (CONTRACTOR) to extend the term of the Agreement seventeen (17) months to December 31, 2023, with a retroactive start date of July 1, 2022 for the Carmel Lagoon Project (REF 120051);
- b. Approve redistribution of funds from Task 8.7, Additional Services, in the amount of \$5,242 to Task 8.4, Additional Technical Studies, subtasks 8.4.1 and 8.4.4 in the amounts of \$1,693 and \$3,549, respectively; and
- c. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute: 1) Renewal and Amendment No. 9 to Professional Services Agreement No. A-12442 and 2) future amendments to Professional Services Agreement A-12442 to extend the term beyond the original term authorized in Request for Proposals #2012-CRL-1 where the amendments do not significantly alter the scope of work or increase the amount by more than 10%, subject to County Counsel approval.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve retroactively a Renewal and Amendment No. 9 to Agreement A-12442 with Denise Duffy & Associates, Inc., (CONTRACTOR) to extend the term of the Agreement seventeen (17) months to December 31, 2023, with a retroactive start date of July 1, 2022 for the Carmel Lagoon Project (REF 120051);
- b. Approve redistribution of funds from Task 8.7, Additional Services, in the amount of \$5,242 to Task 8.4, Additional Technical Studies, subtasks 8.4.1 and 8.4.4 in the amounts of \$1,693 and \$3,549, respectively; and
- c. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute: 1) Renewal and Amendment No. 9 to Professional Services Agreement No. A-12442 and 2) future amendments to Professional Services Agreement A-12442 to extend the term beyond the original term authorized in Request for Proposals #2012-CRL-1 where the amendments do not significantly alter the scope of work or increase the amount by more than 10%, subject to County Counsel approval.

SUMMARY/DISCUSSION:

The County of Monterey Housing and Community Development Department (HCD) is the lead agency for the Carmel Lagoon Project located within and adjacent to the Carmel River State Beach and Lagoon between State Route (SR) 1 and the Pacific Ocean in the unincorporated area of Carmel, Monterey County, California. The Project is a multi-objective, multi-year, multi-organizational effort to improve habitat for threatened and endangered species in the lower Carmel River and Lagoon,

improve natural floodplain function, and protect public infrastructure, while maintaining or improving flood risk to existing developed areas. Professional Services Agreement (PSA) A-12442 was entered into on May 1, 2013, with Denise Duffy & Associates, Inc. (DDA) for work to complete the Carmel Lagoon Project EIR.

PSA A-12442 expired on June 30, 2022. With approval of this Amendment 9 the term of the agreement will be extended to December 31, 2023, to allow the contractor sufficient time to complete tasks associated with the Carmel Lagoon EIR Project. The total not to exceed amount of \$1,547,252.82 will not change with Amendment 9. There are sufficiently budgeted funds to cover expected invoices for work done by DDA within contract renewal period.

If approved, Amendment 9 will also reassign \$5,242 in available funds from Task 8.7 to Task 8.4. Task 8.4, Additional Technical Studies, regarding the evaluation of the natural stream alignment and sediment transport analysis have been completed at \$5,242 over budget. Task 8.7, Additional Services, has available excess funds, and the transfer of those funds to Task 8.4 would rebalance the budget. There would be no change to the not to exceed amount of \$1,547,252.83.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and the Auditor-Controller's Office have reviewed and approved Renewal and Amendment No. 9 as to form and legality, and fiscal provisions, respectively.

FINANCING:

There are no additional costs associated with the redistribution of funds within the Agreement. The project is currently budgeted in Fund 404, Unit 8564, Appropriation Unit PFP057, for Fiscal Year 2023 with a budget of \$428,370.28.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Approval of Renewal and Amendment No. 9 advances the Board of Supervisors' Infrastructure and Public Safety Strategic Initiatives by facilitating the planning and development of sustainable infrastructure that will balance environmental protection with maintaining flood protection for lagoon-area properties and public infrastructure. The technical studies and on-going environmental review for the Project continues to advance the Project toward implementation.

- ☐ Economic Development
- ☐ Administration
- ☐ Health & Human Services
- ☒ Infrastructure
- ☒ Public Safety

Prepared by: Shandy Carroll, Management Analyst III, 784-5643

Approved by: Melanie Beretti, AICP, Principal Planner, 755-5285

Approved by: Erik V. Lundquist, AICP, Director, 755-5025

DS
EL

The following attachments are on file with the Clerk of the Board:

Attachment 1 - Renewal and Amendment No. 9

Attachment 2 - Amendment No. 8

Attachment 3 - Amendment No. 7

Attachment 4 - Amendment No. 6

Attachment 5 - Amendment No. 5

Attachment 6 - Amendment No. 4

Attachment 7 - Amendment No. 3

Attachment 8 - Amendment No. 2

Attachment 9 - Amendment No. 1

Attachment 10 - Agreement

Attachment 1

This page intentionally left blank.

**RENEWAL AND AMENDMENT NO. 9
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS RENEWAL AND AMENDMENT NO. 9 to Professional Services Agreement No. A-12442 between the County of Monterey, a political subdivision of the State of California (“County”) and Denise Duffy & Associates, Inc. (“CONTRACTOR”) is hereby entered into between the County and the CONTRACTOR (collectively, the “Parties”) and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into Professional Services Agreement No. A-12442 with the County on May 1, 2013 (“Agreement”) to provide a Programmatic Biological Assessment (BA) and Initial Study (IS) for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan for Phases 1 and 2 (“Project”) through April 23, 2014 for an amount not to exceed \$353,100;

WHEREAS, Agreement was amended by the Parties on April 10, 2014 (“Amendment No. 1”) to extend the term for one (1) additional year through April 23, 2015 with no increase in the not to exceed amount;

WHEREAS, Agreement was amended by the Parties on June 13, 2014 (“Amendment No. 2,” including Exhibit A-1 – Scope of Services/Payment Provisions) to increase the amount by \$193,571 which resulted in a total not to exceed amount of \$546,671 to revise the original scope of the Agreement to provide for a Focused Environmental Impact Report (EIR) (“services”) for completion of Phase 2 of the Project with no extension to the term;

WHEREAS, Agreement was amended by the Parties on April 23, 2015 (“Amendment No. 3”) to extend the term for approximately fourteen (14) additional months through June 30, 2016 with no increase in the not to exceed amount;

WHEREAS, Agreement was amended by the Parties on October 19, 2015 (“Amendment No. 4,” including Exhibit A-2 – Scope of Services/Payment Provisions) to extend the term for six (6) additional months through December 31, 2016 and to increase the amount by \$277,883 which resulted in a total not to exceed amount of \$824,554;

WHEREAS, Agreement was amended by the Parties on December 9, 2016 (“Amendment No. 5”) to extend the term for eighteen (18) additional months through June 30, 2018 with no increase in the not to exceed amount;

WHEREAS, Agreement was amended by the Parties on May 31, 2018 (“Amendment No. 6”) to extend the term for eighteen (18) additional months through December 31, 2019 with no increase in the not to exceed amount;

WHEREAS, Agreement was amended by the Parties on December 9, 2019 (“Amendment No. 7”) to extend the term for two (2) additional years through December 31, 2021 with no increase in the not to exceed amount;

WHEREAS, Agreement was amended on April 2, 2020 (“Amendment No. 8”) to extend the term for six (6) additional months to June 30, 2022, to update the Schedule of Rates, reallocate unused funding in the amount of \$88,192.97 and increase the amount by \$772,698.33 for a total not to exceed amount of \$1,547,252.83;

WHEREAS, the Agreement expired by its own terms on June 30, 2022;

WHEREAS, CONTRACTOR has completed technical studies (Task 8.4) related to the evaluation of the natural stream alignment and sediment transport analysis \$5,242 over budget;

WHEREAS, the Parties wish to renew the Agreement to allow additional time for the CONTRACTOR to continue to provide services and move \$5,242 from Optional Task 8.7 to Task 8.4; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term for seventeen (17) months to December 31, 2023, with no increase to the not to exceed amount of \$1,547,252.83 or change to the scope of work to allow CONTRACTOR to continue to provide services identified in the Agreement.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 3, “Term of Agreement,” to read as follows:

The term of this Agreement is from April 23, 2013 to December 31, 2023, unless sooner terminated pursuant to the terms of this Agreement.

2. Except as amended herein, all other terms and conditions of the Agreement as previously amended by Amendments Nos. 1 through 8, including all Exhibits thereto, remain unchanged by this Renewal and Amendment No. 9 and shall continue in full force and effect.
3. A copy of this Renewal and Amendment No. 9 shall be attached to the original Agreement and incorporated therein as if fully set forth in the Agreement.

****This section intentionally left blank.***

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 9 to the Agreement which shall be effective as of the last date opposite the respective signatures below.


COUNTY OF MONTEREY

By: _____
Contracts/Purchasing Officer

Date: _____

Approved as to Form**Office of the County Counsel**

Leslie J. Girard, County Counsel

By:  _____
C21D52A9D63041CA Kristi A. Markey
Deputy County Counsel

Date: 9/6/2022

Approved as to Fiscal Provisions

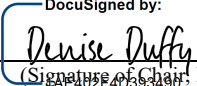
By:  _____
D3834BFEC1D8449A Auditor/Controller

Date: 9/6/2022

CONTRACTOR*

Denise Duffy & Associates, Inc.

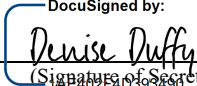
Contractor's Business Name

By:  _____
DocuSigned by: Denise Duffy
(Signature of Chair, President or Vice President)

Denise Duffy, President

(Print Name and Title)

Date: 9/6/2022

By:  _____
DocuSigned by: Denise Duffy
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Denise Duffy, Secretary

(Print Name and Title)

Date: 9/6/2022

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

This page intentionally left blank.

Attachment 2

This page intentionally left blank.



Monterey County Board of Supervisors

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066
www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor Jane Parker to:

Agreement No.: A-12442

- a. Approve Amendment No. 8 to Professional Services Agreement No. A-12442 with Denise Duffy & Associates, Inc. to provide continued services associated with completion of an Environmental Impact Report for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan for Phases 1 and 2 to update the Schedule of Rates; reallocate unused funding in the amount of \$88,193 to expand existing and new tasks; increase the not-to-exceed amount of \$824,554 by \$722,699, for a total amount not to exceed \$1,547,253; and extend the expiration date for six (6) additional months through June 30, 2022, for a revised term from April 23, 2013 to June 30, 2022 (REF120051);
- b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute: 1) Amendment No. 8 to Professional Services Agreement No. A-12442, and 2) up to three (3) future amendments to Professional Services Agreement No. A-12442 to extend the term beyond the original term where the amendments do not exceed more than five (5) years cumulatively and do not substantially alter the scope of work or increase the approved amount of the Agreement, subject to the review and approval of the Office of the County Counsel as to form.

PASSED AND ADOPTED on this 24th day of March 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams

NOES: None

ABSENT: None

(Government Code 54953)

I, Valerie Ralph, 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 82 for the meeting March 24, 2020.

Dated: March 24, 2020
File ID: A 20-048
Agenda Item No.: 31

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

Joel G. Pablo, Deputy

**AMENDMENT NO. 8
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS AMENDMENT NO. 8 to Professional Services Agreement No. A-12442 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Denise Duffy & Associates, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into Professional Services Agreement No. A-12442 with County on May 1, 2013 (hereinafter, "Agreement") to provide a Programmatic Biological Assessment (BA) and Initial Study (IS) for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan for Phases 1 and 2 (hereinafter, "Project") through April 23, 2014 for an amount not to exceed \$353,100; and

WHEREAS, Agreement was amended by the Parties on April 10, 2014 (hereinafter, "Amendment No. 1") to extend the term for one (1) additional year through April 23, 2015 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on June 13, 2014 (hereinafter, "Amendment No. 2", including Exhibit A-1 – Scope of Services/Payment Provisions) to increase the amount by \$193,571 which resulted in a total not to exceed amount of \$546,671 to revise the original scope of the Agreement to provide for a Focused Environmental Impact Report (EIR) (hereinafter, "services") for completion of Phase 2 of the Project with no extension to the term; and

WHEREAS, Agreement was amended by the Parties on April 23, 2015 (hereinafter, "Amendment No. 3") to extend the term for approximately fourteen (14) additional months through June 30, 2016 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on October 19, 2015 (hereinafter, "Amendment No. 4", including Exhibit A-2 – Scope of Services/Payment Provisions) to extend the term for six (6) additional months through December 31, 2016 and to increase the amount by \$277,883 which resulted in a total not to exceed amount of \$824,554; and

WHEREAS, Agreement was amended by the Parties on December 9, 2016 (hereinafter, "Amendment No. 5") to extend the term for eighteen (18) additional months through June 30, 2018 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on May 31, 2018 (hereinafter, "Amendment No. 6") to extend the term for eighteen (18) additional months through December 31, 2019 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on December 9, 2019 (hereinafter, "Amendment No. 7") to extend the term for two (2) additional years through December 31, 2021 with no increase in the not to exceed amount; and

WHEREAS, all tasks identified in Exhibits A, A-1 and A-2 of this Agreement have either been completed or updated as identified in Exhibit A-3 of this Agreement; and

WHEREAS, the Parties wish to reallocate funding in the amount of \$88,192.97 to expand existing tasks or new tasks as included in Exhibit A-3; and

WHEREAS, CONTRACTOR's Schedule of Rates require an update effective upon the date of final execution of this Amendment No. 8 which is the last date opposite the respective signatures below, as further set out in Exhibit A-3, attached hereto and incorporated herein by reference; and

WHEREAS, due to delays in the ongoing coordination with landowners and stakeholders related to the environmental review process, completion of Phase 2 of the Project has not been completed; and

WHEREAS, additional time and funding are necessary to allow CONTRACTOR to expand existing tasks and to include additional technical studies, analyze an additional alternative in the EIR and complete the environmental review and permitting process to complete Phase 2 of the Project; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term for six (6) additional months to June 30, 2022, to update the Schedule of Rates, reallocate unused funding in the amount of \$88,192.97 and increase the amount by \$722,698.83 for a total amount not to exceed \$1,547,252.83 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 8.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 1, "Services to be Provided", to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A, A-1, A-2 and A-3** in conformity with the terms of this Agreement.

2. Amend Paragraph 2, "Payment Provisions", to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1, A-2 and A-3**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$1,547,252.83.

3. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from April 23, 2013 to June 30, 2022, unless sooner terminated pursuant to the terms of this Agreement.

4. Amend Paragraph 4, "Additional Provisions/Exhibits", by adding "Exhibit A-3, Scope of Services/Payment Provisions".
5. Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, Payment Conditions, of the Agreement. All invoices shall reference **Multi-Year Agreement (MYA) #3000*844**, the Project name and associated Delivery Order (DO) number, and an original hardcopy shall be sent to the following address or via email to RMA-Finance-AP@co.monterey.ca.us:

County of Monterey
Resource Management Agency (RMA) – Finance Division
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement shall be directed to the RMA – Finance Division at (831) 755-4800 or via email to: RMA-Finance-AP@co.monterey.ca.us.

6. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
7. This Amendment No. 8 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
8. The recitals to this Amendment No. 8 are incorporated into the Agreement and this Amendment No. 8.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 8 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR*

By: _____
Contracts/Purchasing Officer

Denise Duffy & Associates, Inc.
Contractor's Business Name

Date: _____

By: Denise Duffy
(Signature of Chair, President or Vice President)

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel

Its: Denise Duffy, President
(Print Name and Title)

Date: 2/26/2020

By: _____
Brian P. Briggs
Deputy County Counsel

By: Denise Duffy
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

Date: _____

Its: Denise Duffy, Secretary
(Print Name and Title)

Date: 2/26/2020

Approved as to Fiscal Provisions

By: _____
Auditor/Controller

Date: _____

Approved as to Indemnity and Insurance Provisions
Office of the County Counsel-Risk Management
Leslie J. Girard, County Counsel-Risk Manager

By: _____

Name: _____

Title: _____

Date: _____

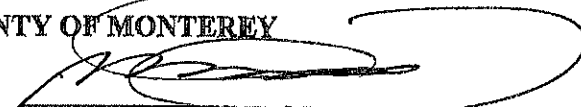
*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 8 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR*

By:


Contracts/Purchasing Officer

Denise Duffy & Associates, Inc.

Contractor's Business Name

Date:

04-02-2020

By:


(Signature of Chair, President or Vice President)

Its:

Denise Duffy, President

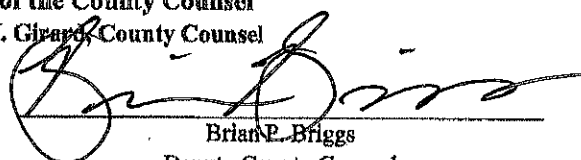
(Print Name and Title)

Approved as to Form

Office of the County Counsel

Leslie J. Girard, County Counsel

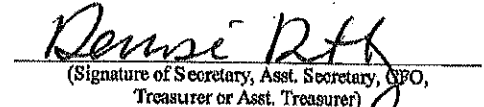
By:


Brian P. Briggs
Deputy County Counsel

Date:

2/26/2020

By:


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

Its:

Denise Duffy, Secretary

(Print Name and Title)

Approved as to Fiscal Provisions

By:


Auditor/Controller

Date:

2/26/2020

Date:

3/3/2020

Approved as to Indemnity and Insurance Provisions

Office of the County Counsel-Risk Management

Leslie J. Girard, County Counsel-Risk Manager

By:

Name:

Title:

Date:

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

EXHIBIT A-3 – SCOPE OF SERVICES/PAYMENT PROVISIONS

**To Agreement by and between
County of Monterey, hereinafter referred to as “County”
and
Denise Duffy & Associates, Inc., hereinafter referred to as “CONTRACTOR”**

Subject: Carmel Lagoon EIR Project (Project) – Amendment No. 8 Request for Phase 2

CONTRACTOR is submitting the following budget amendment request to the approved Agreement. CONTRACTOR received comments on the Public Draft Carmel Lagoon Ecosystem Protective Barrier, Scenic Road Protection Structure (SRPS), and Interim Sandbar Management Program Environmental Impact Report (EIR) and, in coordination with County, have determined that additional technical studies are necessary to complete the environmental review and permitting processes. In addition, County requested CONTRACTOR to provide a scope of work and budget to analyze an additional alternative in the EIR. The following scope of work outlines the tasks necessary to perform the additional technical studies, analyze an additional alternative to the proposed Project, and complete the environmental review process. In addition, any remaining budget for tasks previously outlined in Exhibits A, A-1, and A-2 of this Agreement shall be reallocated to the tasks outlined below.

TASK 6.0 ENVIRONMENTAL DOCUMENTATION – CEQA/NEPA

Task 6.8 Respond to Comments/Prepare Draft Final EIR and Mitigation Monitoring and Reporting Program (MMRP)

Task 6.8.1 Respond to Comments/Prepare Draft Final EIR

CONTRACTOR shall respond to Public comments received on the Draft EIR received during the 45-day review period. CONTRACTOR, in consultation with County, shall prepare formal responses to these comments. The comment letters and responses, as well as any necessary changes to the text of the Draft EIR, will be incorporated into the Final EIR. The Final EIR Response to Comments and the Recirculated Draft EIR (RDEIR) Response to Comments (please see Task 8.6 below), along with any revisions to the Draft EIR and RDEIR, shall constitute the Final EIR. CONTRACTOR shall provide electronic copies of the Draft Final EIR to County for review and comment. This scope assumes two (2) rounds of comments, including review and comment by County's Office of the County Counsel.

Task 6.8.2 Draft MMRP

CONTRACTOR shall prepare a Draft MMRP in accordance with the California Environmental Quality Act (CEQA) and County requirements, including the identification all mitigation measures, and implementation and monitoring responsibility, timing, and schedule. CONTRACTOR shall provide electronic copies of the Draft MMRP to County for review and comment. This scope assumes two (2) rounds of comments, including review and comment by County's Office of the County Counsel.

EXHIBIT A-3 – SCOPE OF SERVICES/PAYMENT PROVISIONS

Task 6.9 Prepare Final EIR and MMRP/Hearing Attendance

Upon conclusion of the two (2) rounds of comments on the Draft Final EIR and MMRP, CONTRACTOR shall finalize the EIR and MMRP. The tasks required for Project approval/EIR certification (e.g., preparation of staff reports, resolution, CEQA Findings/Statement of Overriding Considerations, etc.) and preparation, posting, and distribution of the notices (e.g., Notice of Determination) shall be completed by CONTRACTOR in coordination with County. CONTRACTOR shall provide drafts of each of these documents to County for review and comment prior to finalization. CONTRACTOR shall provide one (1) electronic copy of the Final EIR and MMRP to County. This scope assumes that all Public mailings and posting of documentation, notices, etc. shall be conducted and paid for by County, including County Clerk and California Department of Fish and Wildlife (CDFW) filing fees. Additional copies beyond those identified above are not included in this scope. CONTRACTOR shall attend the Public Hearing for Project approval and certification of the EIR and shall be available to answer questions, as needed. CONTRACTOR shall coordinate with County to prepare and provide hearing and presentation materials; however, it is assumed that County shall be responsible for preparing and conducting the presentation.

TASK 7.0 DRAFT AND FINAL EIR MEETINGS AND PROJECT MANAGEMENT

Task 7.1 Meetings

Task 7.1.1 Meetings

CONTRACTOR shall attend meetings at County offices assuming two (2) hours per month for eighteen (18) months within the estimated budget.

Task 7.2 Conference Calls

Task 7.2.1 Conference Calls

CONTRACTOR shall be available for eight (8), two (2) hour phone calls led by County with up to two (2) members of CONTRACTOR's staff participating in each call.

Task 7.3 Project Management

7.3.1 Project Management

CONTRACTOR shall provide project management services, including subconsultant administration and management, status progress reporting and tracking, schedule and budget monitoring and reporting, and client/agency coordination up to the total estimated budget provided.

TASK 8.0 OPTIONAL TASKS

Task 8.2 Other Optional/Out of Scope Tasks

Task 8.2.2 Additional Response and Revisions to Prepare Final EIR

Due to the significant number of Public comment letters received on the Draft EIR, this task includes additional CONTRACTOR's staff time to respond to Public comments and revise the Draft EIR.

EXHIBIT A-3 – SCOPE OF SERVICES/PAYMENT PROVISIONS

Task 8.3 Technical Advisory Committee (TAC) & Stakeholder Engagement

CONTRACTOR's sub-consultant, Moffatt & Nichol (M&N), in coordination with County and CONTRACTOR, shall contact local academia, professionals, experts, and others as needed, to form a TAC. The TAC shall be formed and involved in the review of the technical studies described in Task 8.4, Additional Technical Studies. In addition, this scope assumes outreach and coordination with stakeholders, including, but not limited to, the resource and permitting agencies, Carmel Area Wastewater District (CAWD), and County Service Area (CSA)-1. This scope assumes four (4) meetings with stakeholders, and one (1) conference call or meeting per month with the TAC within the estimated budget.

Task 8.4 Additional Technical Studies

CONTRACTOR shall provide Project management to support the technical analysis tasks identified below. In addition, this scope assumes two (2) conference calls and one (1) in-person meeting per month.

Task 8.4.1 Evaluate the Natural Stream Alignment and Location of Breach Assuming No Management

CONTRACTOR's sub-consultant, M&N, shall complete an evaluation report on the natural stream alignment of the Carmel River and location of breach of the sandbar at the Carmel Lagoon, including but not limited to reviewing aerial photo history, flow records, ocean wave conditions, and work with the TAC to identify whether the assertion of a northerly breach is correct. Also, M&N shall determine if a longer closed lagoon condition for juvenile rearing steelhead is appropriate and if it can be accomplished by alternate means. M&N shall submit a draft technical memorandum for review and comment, and then finalize upon receipt of comments. This scope assumes one (1) round of comments and includes one (1) conference call.

Task 8.4.2 Evaluate Impacts of Wall Option on Beach

CONTRACTOR's sub-consultant, M&N, shall prepare an assessment of wave energy and transport potential for a range of beach widths simulating the natural progression from summer/fall (when beach is widest) to winter/spring (when beach is narrowest) and assuming beach build-up potential. M&N shall submit a draft technical memorandum for review and comment, and then finalize upon receipt of comments. This scope assumes one (1) round of comments and includes one (1) conference call.

Task 8.4.3 SRPS Preliminary Design and Alternatives

CONTRACTOR'S sub-consultant, M&N, shall develop the preliminary design of the wall option, continuing from the thirty percent (30%) conceptual design prepared for the Draft EIR. Based on the results of the studies in the tasks above, M&N shall begin to establish the basis of design, working to describe the location, dimensions, type of wall, and constructability of the wall option, as well as how to address sea level rise and identifying adaptive measures. A brief memorandum outlining the preliminary basis of design shall be provided to County, CONTRACTOR, and TAC for review and comment, and then finalize upon receipt of comments. This scope assumes one (1) round of comments and includes one (1) conference call.

Task 8.4.4 Sediment Transport Study

CONTRACTOR's sub-consultant, M&N, shall conduct a Sediment Transport Study to obtain a better understanding of how much sand is in the system, how much moves by fluvial action and under what flow condition, how much it moves by ocean waves and tides, and where it moves. This typically requires a multi-year simulation of waves and flows with various antecedent beach

EXHIBIT A-3 – SCOPE OF SERVICES/PAYMENT PROVISIONS

profile shapes, elevation, and widths, and then combining them together to estimate net and gross littoral (longshore) transport as well as cross-shore transport rates. M&N shall prepare a technical memorandum for review and comment, and then finalize upon receipt of comments. This scope assumes one (1) round of comments and two (2) conference calls.

Task 8.5 Analysis of Additional EIR Alternative

Per the request of County, this task would involve bringing forward the Ecosystem Protection Barrier (EPB) at Property Line Alternative as an alternative to be analyzed in the RDEIR. As described in the Draft EIR, this alternative would reduce encroachment into State Parks property and reduce biological resources impacts; however, it may also result in increased aesthetic, noise, drainage, and water quality impacts. This task includes analyzing the potential environmental impacts of this alternative at a more detailed level; conceptual site plans, visual assessment, noise assessment, drainage analysis, and water quality assessment are anticipated. As a result, CONTRACTOR's other sub-consultants, Whitson and Associates, Inc. dba Whitson Engineers (Whitson), Balance Hydrologic, Inc. (Balance), and Ambient Air Quality & Noise Consulting, LLC (AMBIENT) shall assist in supporting this analysis. This scope assumes one (1) round of comments and two (2) conference calls.

Task 8.6 Recirculated Draft EIR

Task 8.6.A Administrative Draft Recirculated Draft EIR

Based on the results of the additional technical studies conducted for the Project, CONTRACTOR shall prepare a detailed Administrative Draft RDEIR for the Project. In addition to the required information, the RDEIR shall include, but shall not be limited to, the recirculation of the following environmental topic sections: aesthetics; biological resources; geology, soils, and seismicity; hydrology and water quality; noise; public services, recreation, and utilities, and alternatives. The Administrative Draft document shall be provided electronically to County, technical consultants, and County's Office of the County Counsel for review and comment. This scope assumes two (2) rounds of comments and two (2) in-person meetings.

Task 8.6.B Screencheck Draft RDEIR and Public RDEIR & Noticing

After the Project Team's review of the Administrative Draft RDEIR, CONTRACTOR shall incorporate the comments received and prepare a Screencheck Draft RDEIR for final review by the Project Team prior to Public distribution. This scope assumes that the Screencheck Draft RDEIR will require minor revisions and one (1) round of comments. Upon receipt of comments on the Screencheck Draft RDEIR, CONTRACTOR shall prepare the Public RDEIR and required noticing. CONTRACTOR shall submit one (1) electronic copy of the Public RDEIR to County for Public distribution. CONTRACTOR shall also prepare all of the necessary Public notices as required pursuant to CEQA and submit the required notices and Public RDEIR to the State Clearinghouse and Monterey County County Clerk. This task assumes that County shall be responsible for the distribution of the Public RDEIR. In addition, this task also assumes that County shall provide CONTRACTOR with an updated list of persons and/or interested groups that should be provided notification of the availability of the Public RDEIR. This task assumes that County shall be responsible for coordinating the publication of the Notice of Availability in the newspaper.

EXHIBIT A-3 – SCOPE OF SERVICES/PAYMENT PROVISIONS

8.6.C Response to Comments on Public RDEIR

As part of this task, CONTRACTOR shall initially review all comments received during the course of the Public RDEIR Public-review period. CONTRACTOR shall subsequently confer with County Staff and County's Office of the County Counsel to determine the extent of comments and appropriate responses. As part of this task, CONTRACTOR, in consultation with County, shall update and amend the scope if significant comments are received on the Public RDEIR which will require additional staff time to prepare written responses. At this time, CONTRACTOR anticipates that comments shall be similar in nature given the scope of anticipated revisions. Nevertheless, if additional time is necessary to respond to comments and revision to the scope is required, these additional services cannot be provided until the additional work is presented to County and with County's approval, amended into the Agreement. Once the amendment to the Agreement is fully executed, CONTRACTOR will be authorized to proceed with the additional services.

This task assumes that comments will be limited to the revised sections of the Public RDEIR and will not raise any new significant environmental issues. This task also assumes that any comments received related to litigation will be addressed by County's Office of the County Counsel. CONTRACTOR shall provide an electronic copy of the written responses to the Project Team for review and comment. This scope assumes two (2) rounds of comments and three (3) in-person meetings. Upon receipt of comments, CONTRACTOR shall revise the response to comments and incorporate into the Final EIR (please see Task 6.8.1).

Task 8.7 Additional Services

Due to the complex and multi-dimensional nature of the Project, there is the potential that the estimated services for the tasks identified in this Exhibit A-3, Scope of Services/Payment Provisions, may be widened at the discretion of County during the term of this Agreement. These "Additional Services" are defined as other related services associated with identified tasks as requested in writing by County. Additional Services related to the tasks described herein shall not be provided unless authorized in writing by County prior to Additional Services being provided. Additional Services completed by CONTRACTOR prior to receiving County's written authorization to proceed shall not be eligible for compensation.

Any newly identified tasks not included herein shall not be conducted by CONTRACTOR until presented to County and with County approval, amended into this Agreement.

In the event that CONTRACTOR identifies that costs are to exceed the task allocated budget amount(s) in this Exhibit A-3, CONTRACTOR shall notify County in advance and as soon as possible in writing and clearly describe how CONTRACTOR will achieve net fiscal neutrality.

EXHIBIT A-3 – SCOPE OF SERVICES/PAYMENT PROVISIONS



Denise Duffy & Associates, Inc.

PLANNING AND ENVIRONMENTAL CONSULTING

January 1, 2020 – June 30, 2022

SCHEDULE OF RATES

HOURLY PERSONNEL RATES

Principal	\$230.00
Senior Project Manager/Engineering Specialist	\$194.00
Principal Planner	\$173.00
Senior Project Manager	\$166.00
Senior Botanist	\$154.00
Senior Planner/Scientist II	\$153.00
Project Manager	\$145.00
Senior Planner/Scientist	\$135.00
Assistant Project Manager	\$121.00
Environmental Biologist	\$115.00
Associate Planner/Scientist	\$110.00
Assistant Planner/Scientist	\$ 99.00
GIS/Computer Specialist	\$105.00
Administrative Manager	\$ 86.00
Database/Designer/Graphics	\$ 81.00
Planning Technician	\$ 73.00
Field Technician	\$ 69.00
Administrative Assistant	\$ 64.00

Direct reimbursable costs associated with the execution of a project are charged at cost plus 15% to cover general and administrative services. These expenses may include, but are not limited to: subconsultant services, printing and graphic charges, permit charges and filing fees, authorized travel charges, courier, postage, mileage and field supplies. Mileage will be charged at the current IRS mileage rate. Communication and miscellaneous office expenses (including cell phones, phone, fax, electronic data transmittal, photos etc.) are billed at 3% of total labor.

Above rates are effective from 1/1/2020 through 6/30/2022 and may be adjusted thereafter.

Dailise Duffy & Associates, Inc. Estimated Budget for Carmel River Lagoon Project Environmental Impact Report February 13, 2020																			
Task Description		Refuge	Phish	Senior Project Manager	Senior Project Scientist II	Staffing Project Scientist II	Associate Planner/Scientist	Administrative Planning/Scientist	Old Scientist	Graphics	Admin	Wildlife Engineers	Estimate Hydrologist	Offset Method	Total Subcontract Cost	Expenses (see note 1)	Additional Services for Task 6.7	Subtask Totals	Task Total
6.0		\$230	\$165	\$153	\$135	\$140	\$89	\$105	\$81	\$54									
ENVIRONMENTAL DOCUMENTATION REQUIREMENTS																			
6.0	Response to Comments/Prepare Draft Final EIR and Draft MISC																		\$ 221,560.00
6.1	Response to Comments/Prepare Draft Final EIR	20	40	20	80	120	120	20	12	30	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 6,000	\$ 250	\$	\$ 69,840.00	\$
6.2	Draft MISC	2	16	8	4	4	28		4									\$ 7,710.00	
6.3	Prepare Final EIR and MISC/Meeting Attendance	12	60	40	40	100	120	8	16	14						\$ 120	\$ 15.00	\$ 53,610.00	\$ 53,610.00
6.4	Draft and Final EIR Meetings and Project Management																	\$	\$ 30,342.00
6.5	Agency Self-Inspection Meetings																		\$
6.6	Agency Self-Inspection Meetings (estimate)	2	72	10		10	2				\$ 800	\$ 800	\$ 500	\$ 1,400	\$ 50	\$	\$ 207.00	\$ 17,833.00	
6.7	Guidance Data																		\$
6.8	Confidence Data	2	18	15		5	4				\$ 500	\$ 500	\$ 800	\$ 1,900	\$ 27	\$	\$ 220.05	\$ 9,109.05	
6.9	Project Management																		\$
6.10	Project Management	4	42	10												\$ 135	\$ 20.25	\$ 9,577.25	\$
6.11	Optional Tanks																		\$ 652,804.00
6.12	Other Optional/Out of Scope Tanks																		\$
6.13	Additional Response and Revisions to Prepare Final EIR	4	24	10	20	40	120	32			\$ 1,500	\$ 2,000	\$ 1,500	\$ 6,000	\$ 100	\$	\$ 765.00	\$ 34,639.00	
6.14	Technical Advisory Committee & Stakeholder	4	40	8			4	4		2	\$ 9,000	\$ 7,500	\$ 60,000	\$ 63,000	\$ 300	\$	\$ 9,670.00	\$ 85,280.00	
6.15	Additional Technical Staffing																		\$
6.16	Estimate Natural Stream Alignment and Location of Swinging	2	10	8							\$ 4,500	\$ 4,500	\$ 20,000	\$ 34,000		\$	\$ 1,100.00	\$ 42,580.00	
6.17	Swinging Stream Alignment	2	10	8							\$ 2,500	\$ 2,500	\$ 30,000	\$ 32,500		\$	\$ 4,875.00	\$ 40,415.00	
6.18	Create Impacts of Final Option in Beach	2	14										\$ 35,000	\$ 35,000		\$	\$ 4,200.00	\$ 43,034.00	
6.19	SPFS Preliminary Design and Alternatives	2	18										\$ 115,000	\$ 115,000		\$	\$ 17,250.00	\$ 135,698.00	
6.20	SPFS Preliminary Design and Alternatives	2	18										\$ 115,000	\$ 115,000		\$	\$ 17,250.00	\$ 135,698.00	
6.21	SPFS Preliminary Design and Alternatives	2	18										\$ 115,000	\$ 115,000		\$	\$ 17,250.00	\$ 135,698.00	
6.22	SPFS Preliminary Design and Alternatives	2	18										\$ 115,000	\$ 115,000		\$	\$ 17,250.00	\$ 135,698.00	
6.23	SPFS Preliminary Design and Alternatives	2	18										\$ 115,000	\$ 115,000		\$			

Expenses include: Photocopying, printing, travel expenses (air, mileage to meetings), reproduction, postage, phone, business, materials, etc. Unless otherwise noted or requested, CDMA assumes that all communications will be submitted electronically in PDF format, or if needed, Microsoft Word only. The exception would be documents requiring agency or public distribution, such as the national technical studies that will be submitted relevant agencies in history documents. If not explicitly stated in the task descriptions within the scope of work, CDMA will print and send up to three hard copies, in addition to electronic copies of each deliverable.

Amendment No. 1 indicates unused funding in the amount of \$24,152.97 and further increases the Agreement not to exceed amount of \$24,854.03 for a total Agreement amount not to exceed \$1,547,292.23.

11/11/2011



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/5/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
(HD) Heffernan Insurance Brokers
1350 Carback Avenue
Walnut Creek CA 94596

CONTACT NAME: Elizabeth Lee
PHONE (AC, No, Ext): 925-934-8500 FAX (AC, No): 925-934-8278
E-MAIL: elizabeth@heffins.com
ADDRESS:

INSURED
Denise Duffy & Associates
947 Cass Street, Suite 5
Monterey CA 93940

DENIDUF-02

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Citizens Insurance Company of America	31534
INSURER B: The Hanover American Insurance Company	36064
INSURER C: Continental Casualty Company	20443
INSURER D:	
INSURER E:	
INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 1803014648

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDITIONAL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	OB39169912	9/1/2019	9/1/2020	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	OB39169912	9/1/2019	9/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$Included in GL BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DEO <input type="checkbox"/> RETENTIONS \$		OB39169912	9/1/2019	9/1/2020	EACH OCCURRENCE \$3,000,000 AGGREGATE \$3,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	WZ3916990803	9/1/2019	9/1/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	Professional Liability		EEH276198480	11/6/2019	11/5/2020	PER CLAIM AGGREGATE 2,000,000 2,000,000

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

Re: As Per Contract or Agreement on File with the Insured - All Projects.

County of Monterey Contracts & Purchasing Division, The County of Monterey, its Officers, Agents and Employees are included as an additional insured with respects to the General Liability and Automobile Liability policies per the attached endorsements, if required. General Liability policy is primary and non-contributory per the attached endorsement, if required.

CERTIFICATE HOLDER

CANCELLATION

County of Monterey
Contracts & Purchasing Division
168 W. Alisal St., 3rd Fl.
Salinas, CA 93901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY SUPPLEMENTARY ENDORSEMENT

This endorsement modifies Insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

A. Additional Insured by Contract, Agreement or Permit

The following is added to **SECTION II - LIABILITY, C. Who Is An Insured:**

Additional Insured by Contract, Agreement or Permit

a. Any person or organization with whom you agreed in a written contract, written agreement or permit that such person or organization to add as an additional insured on your policy is an additional insured only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by your acts or omissions, or the acts or omissions of those acting on your behalf, but only with respect to:

(1) "Your work" for the additional Insured(s) designated in the contract, agreement or permit including "bodily injury" or "property damage" included in the "products-completed operations hazard" only if this Coverage Part provides such coverage.

(2) Premises you own, rent, lease or occupy; or

(3) Your maintenance, operation or use of equipment leased to you.

b. The Insurance afforded to such additional Insured described above:

(1) Only applies to the extent permitted by law; and

(2) Will not be broader than the insurance which you are required by the contract, agreement or permit to provide for such additional Insured.

(3) Applies on a primary basis if that is required by the written contract, written agreement or permit.

(4) Will not be broader than coverage provided to any other Insured.

(5) Does not apply if the "bodily injury", "property damage" or "personal and advertising injury" is otherwise excluded from coverage under this Coverage Part, including any endorsements thereto.

c. This provision does not apply:

(1) Unless the written contract or written agreement was executed or permit was issued prior to the "bodily injury", "property damage", or "personal

and advertising injury".

(2) To any person or organization included as an insured by another endorsement issued by us and made part of this Coverage Part.

(3) To any lessor of equipment:

(a) After the equipment lease expires; or

(b) If the "bodily injury", "property damage", or "personal and advertising injury" arises out of sole negligence of the lessor.

(4) To any:

(a) Owners or other interests from whom land has been leased if the "occurrence" or offense takes place or the offense is committed after the lease for the land expires; or

(b) Managers or lessors of premises if:

(i) The "occurrence" takes place or the offense is committed after you cease to be a tenant in that premises; or

(ii) The "bodily injury", "property damage", "personal injury" or "advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor.

(5) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services.

This exclusion applies even if the claims against any Insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that Insured, if the "occurrence" which caused the "bodily injury" or "property damage" or the offense which caused the "personal and advertising injury" involved the rendering of or failure to render any professional services by or for you.

d. With respect to the Insurance afforded to these additional Insureds, the following is added to **SECTION II - LIABILITY, D. Liability and Medical Expense Limits of Insurance:**

The most we will pay on behalf of the additional Insured for a covered claim is the lesser of the amount of Insurance:

1. Required by the contract, agreement or permit described in Paragraph a.; or
2. Available under the applicable Limits of Insurance shown in the Declarations.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

B. Aggregate Limits of Insurance per Project or per Location

The following changes are made to **SECTION II - LIABILITY**:

1. The following is added to **SECTION II - LIABILITY, D. Liability and Medical Expenses Limits of Insurance, paragraph 4**:

The Aggregate Limits of Insurance apply separately to each of "your projects" or each "location" listed in the Declarations.

2. For the purpose of coverage provided by this endorsement only, the following is

added to SECTION II - LIABILITY, F. Liability And Medical Expenses Definitions:

1. "Your project" means:

- a. Any premises, site or "location" at, on, or in which "your work" is not yet completed; and
- b. Does not include any "location" listed in the Declarations.

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

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

BUSINESSOWNERS COVERAGE FORM

Table of Contents

SECTION I - PROPERTY

	Page Number
A. Coverage	4
1. Covered Property.....	4
2. Property Not Covered.....	5
3. Covered Causes of Loss.....	6
4. Limitations.....	6
5. Additional Coverages.....	7
Business Income.....	10
Business Income from Dependent Properties.....	17
Civil Authority.....	13
Collapse.....	8
Commercial Tools and Small Equipment.....	27
Computer Equipment.....	20
Computer and Funds Transfer Fraud.....	34
Debris Removal.....	7
Deferred Payments.....	31
Electronic Vandalism.....	31
Employee Theft including ERISA Compliance.....	18
Equipment Breakdown.....	22
Extra Expense.....	12
Fine Arts.....	28
Fire Department Service Charge.....	8
Fire Protection Equipment Recharge.....	18
Forgery or Alteration.....	13
Glass Expenses.....	18
Installation.....	27
Interruption of Computer Operations.....	32
Leasehold Interest (Tenants only).....	29
Limited Coverage for Fungl, Wet Rot, or Dry Rot.....	33
Money and Securities.....	21
Money Orders and Counterfeit Money.....	13
Ordinance or Law.....	14
Preservation of Property.....	8
Pollutant Clean-Up and Removal.....	12
Rewards - Arson, Theft and Vandalism.....	20
Sales Representative Samples.....	29
Tenant Building Insurance - When Your Lease Requires You to Provide Insurance.....	34
Tenant Business Personal Property Insurance - When Your Lease Requires You to Provide Insurance.....	34
Tenant Signs (Tenants Only).....	22
Theft of Telephonic Services.....	34
Unauthorized Business Credit Card Use.....	30
Utility Services.....	30
Water Damage, Other Liquids, Powder or Molten Material Damage.....	10

6. Coverage Extensions	35
Accounts Receivable	37
Business Personal Property Temporarily In Portable Storage Units	39
Appurtenant Structures	38
Inventory and Loss Appraisal	39
Key Replacement and Lock Repair	38
Newly Acquired or Constructed Property	35
Outdoor Property	36
Paved Surfaces	39
Personal Effects	36
Personal Property Off Premises	36
Personal Property In Translt.	38
Valuable Papers and Records (Other Than Electronic Data)	36
Underground Pipes	40
B. Exclusions	40
C. Limits of Insurance	45
D. Deductibles	46
E. Property Loss Conditions	47
1. Abandonment	47
2. Appraisal	47
3. Duties in the Event of Loss or Damage	47
4. Legal Action Against Us	48
5. Loss Payment	48
6. Recovered Property	50
7. Vacancy	50
8. Pair, Sets or Parts	51
F. Property General Conditions	51
1. Control of Property	51
2. Mortgageholders	51
3. No Benefit to Bailee	52
4. Policy Period, Coverage Territory	52
5. Protective Devices	52
6. Increase in Hazard	52
G. Property Definitions	52
 SECTION II - LIABILITY	
A. Coverages	59
1. Business Liability	59
2. Medical Expenses	61
B. Exclusions	62
1. Applicable to Business Liability Coverage	62
2. Additional Exclusions Applicable only to Personal and Advertising Injury	68
3. Additional Exclusions Applicable to Medical Expenses Coverage Only	69
4. Additional Exclusions Applicable to Both Business Liability Coverage and Medical Expenses Coverage - Nuclear Energy Liability Exclusion	70
C. Who Is an Insured	71
D. Liability and Medical Expenses Limits of Insurance	72

E. Liability and Medical Expenses General Conditions.....	73
1. Bankruptcy.....	73
2. Duties in the Event of Occurrence, Offense, Claim or Suit.....	73
3. Legal Action Against Us.....	73
4. Separation of Insureds.....	73
F. Liability and Medical Expenses Definitions.....	74
 SECTION III - COMMON POLICY CONDITIONS (APPLICABLE TO SECTION I - PROPERTY AND SECTION II - LIABILITY)	
A. Cancellation.....	77
B. Changes.....	78
C. Concealment, Misrepresentation or Fraud.....	78
D. Examination of Your Books and Records.....	78
E. Inspections and Surveys.....	78
F. Insurance Under Two or More Coverages.....	78
G. Liberalization.....	79
H. Other Insurance.....	79
I. Premiums.....	80
J. Premium Audit.....	80
K. Transfer of Rights of Recovery Against Others to Us.....	80
L. Transfer of Your Rights and Duties Under This Policy.....	81

BUSINESSOWNERS 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 Coverage Form 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.

In **SECTION II - LIABILITY**, the word "Insured" means any person or organization qualifying as such under paragraph C. **Who is an Insured.**

Other words and phrases that appear in quotation marks have special meaning. Refer to paragraph G. **Property Definitions** in **SECTION I - PROPERTY** and paragraph F. **Liability and Medical Expenses Definitions** in **SECTION II - LIABILITY.**

SECTION I - PROPERTY

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Property

Covered Property includes Buildings as described in paragraph a. below, Business Personal Property as described in paragraph b. below, or both, depending on whether a Limit of Insurance is shown in the Declarations for that type of property. Regardless of whether coverage is shown in the Declarations for Buildings, Business Personal Property, or both, there is no coverage for property described in **SECTION I - PROPERTY, A. Coverage, 2. Property Not Covered.**

a. Buildings, meaning the buildings and structures at the premises described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:
 - (a) Machinery; and
 - (b) Equipment;
- (4) Your personal property in apartments, rooms or common areas furnished by you as the landlord;
- (5) Personal property owned by you that is used to maintain or service the buildings or structures or the premises, including:
 - (a) Fire protection equipment;
 - (b) Outdoor furniture;
 - (c) Floor coverings; and

- (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;

(6) If not covered by other insurance

(a) Additions under construction, alterations and repairs to the buildings or structures;

(b) Materials, equipment, supplies and temporary structures, on or within 1,000 feet of the described premises, used for making additions, alterations or repairs to the buildings or structures.

(7) Signs, whether or not they are attached to covered buildings or structures;

(8) Interior and Exterior Building glass if you are a building owner;

(9) Fences and retaining walls located on or within 1,000 feet of a covered building or structure, whether or not attached to buildings or structures, except for retaining walls that are used, in whole or in part, to contain water.

b. Business Personal Property located in or on the buildings or structures at the described premises or in the open (or in a vehicle) within 1,000 feet of the building or structures or within 1,000 feet of the premises described in the Declarations, whichever distance is greater, including:

- (1) Property you own that is used in your business;
- (2) Property of others that is in your care, custody or control, including the cost of labor, materials or services furnished or arranged by you on personal property of others, except as otherwise provided in **SECTION I -**

PROPERTY, E. Property Loss Condition, 5. Loss Payment paragraph d., subparagraph (3)(b);

- (3) Tenant's Improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:

(a) Made a part of the building or structure you occupy but do not own; and

(b) You acquired or made at your expense but cannot legally remove.

- (4) Leased personal property for which you have a written contractual responsibility to insure, unless otherwise provided in paragraph (2) above;

- (5) Exterior building glass, if you are a tenant and no Limit of Insurance is shown in the Declarations for Building property. The glass must be owned by you or in your care, custody or control;

- (6) Physical damage sustained to a building leased to you caused by or resulting from "theft" or attempted "theft", burglary or robbery of your Business Personal Property.

2. Property Not Covered

Covered Property does not include:

- a. Aircraft, automobiles, motortrucks and other vehicles subject to motor vehicle registration;

- b. Contractor's equipment, which is used or operated principally away from the premises described in the Declarations, or parts and equipment, whether attached or unattached to contractor's equipment, unless such parts and equipment is held for sale by you, or sold by you but not delivered unless specifically endorsed and scheduled, or as provided for in **SECTION I - PROPERTY, B. Additional Coverages, v. Commercial Tools and Small Equipment;**

- c. "Money" or "securities" except as provided in the:

(1) Money and Securities Additional Coverage; or

(2) Employee Theft Additional Coverage;

- d. Contraband or property in the course of illegal transportation or trade;

- e. Land, whether or not resurfaced with stone, gravel or similar layer (including

land on which the property is located), water, growing crops or lawns (other than lawns which are part of a vegetated roof), except as provided in **SECTION I - PROPERTY, A. Coverage, 6. Coverage Extension, i. Paved Surfaces;**

- f. Outdoor radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, trees, shrubs or plants (other than trees, shrubs or plants which are part of a vegetated roof), all except as provided in **SECTION I - PROPERTY, A. Coverage, 6. Coverage Extension, c. Outdoor Property;**

- g. Watercraft (including motors, equipment and accessories);

- h. Accounts, bills, food stamps, other evidences of debt, accounts receivable or "valuable papers and records"; except as otherwise provided in this Coverage Form;

- i. "Computer equipment", which is permanently installed or designed to be permanently installed in any aircraft, watercraft, motortruck or other vehicle subject to motor vehicle registration. This paragraph does not apply to "computer equipment" while held as "stock";

- j. "Electronic Data", except as provided under the Computer Equipment and Electronic Vandalism Additional Coverages. This paragraph does not apply to your "stock" of prepackaged "software" or to "electronic data" which is integrated in and operates or controls the building's elevator, lighting, heating, ventilation, air conditioning or security system;

- k. Animals, unless owned by others and boarded by you, or held for sale by you, or sold but not delivered, and only while inside of buildings;

- l. The cost of excavations, grading, backfilling, or filling;

- m. Bulkheads, pilings, piers, wharves or docks;

- n. Retaining walls that are used, in whole or in part, to contain water.

- o. "Computer Equipment", except as provided for under the:

(1) Computer Equipment Additional Coverage;

(2) Equipment Breakdown Additional Coverage; or

(3) Electronic Vandalism Additional Coverage.

- p. Commercial tools and small equipment except as provided in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, v. Commercial Tools and Small Equipment** or for contractor's equipment specifically endorsed and scheduled. This does not apply to your commercial tools and small equipment permanently installed or exclusively used at the described premises;
- q. Employee tools and small equipment except as provided for in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, v. Commercial Tools and Small Equipment** or when added by separate endorsement;
- r. Bridges (unless the bridge is made a part of a covered Building), roadways, walks, patios or other paved surfaces, except as provided in **SECTION I - PROPERTY, A. Coverage, 6. Coverage Extensions, l. Paved Surfaces**;
- s. Underground pipes, flues or drains except as provided in **SECTION I - PROPERTY, A. Coverage, 6. Coverage Extensions, m. Underground Pipes**; and
- t. Personal Property while airborne or waterborne.

3. Covered Causes of Loss

Risks of direct physical loss unless the loss is:

- a. Excluded in **SECTION I - PROPERTY, B. Exclusions**; or
- b. Limited in **SECTION I - PROPERTY, A. Coverages, 4. Limitations**

4. Limitations

- a. We will not pay for loss of or damage to:
 - (1) Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property. This limitation does not apply to **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, s. Money and Securities**.
 - (2) Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
 - (3) The interior of any building or structure, or to personal property

in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:

- (a) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
 - (b) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
- (4) Lawns, trees, shrubs or plants which are part of a vegetated roof, caused by or resulting from:
- (a) Dampness or dryness of atmosphere or of soil supporting the vegetation;
 - (b) Changes in or extremes of temperature;
 - (c) Disease;
 - (d) Frost or hail; or
 - (e) Rain, snow, ice or sleet.
- b. We will not pay for loss of or damage to the following types of property unless caused by any of the "specified causes of loss" or building glass breakage:
- (1) Animals, and then only if they are killed or their destruction is made necessary.
 - (2) Fragile articles such as glassware, statuary, marble, chinaware and porcelain, if broken. This restriction does not apply to:
 - (a) Glass that is part of the exterior or interior of a building or structure;
 - (b) Containers of property held for sale; or
 - (c) Photographic or scientific instrument lenses.
- c. For loss or damage by "theft", the following types of property are covered only up to the limits shown:
- (1) \$10,000 for furs, fur garments and garments trimmed with fur.
 - (2) \$10,000 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$250 or less per item.

5. Additional Coverages

a. Debris Removal

- (1) Subject to paragraphs (2), (3) and (4) below, we will pay your expense to remove debris of Covered Property and other debris that is on the described premises, when such debris is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
 - (a) Remove debris of property of yours that is not insured under this Coverage Form, or property in your possession that is not Covered Property;
 - (b) Remove debris of property owned or leased to the landlord of the building where your described premises are located, unless you have a contractual responsibility to insure such property and it is insured under this Coverage Form;
 - (c) Remove any property that is Property Not Covered except as provided under the Outdoor Property Coverage Extension;
 - (d) Remove property of others of a type that would not be Covered Property under this Coverage Form;
 - (e) Remove deposits of mud or earth from the grounds of the described premises;
 - (f) Extract "pollutants" from land or water; or
 - (g) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in paragraph (4) below, the following provisions apply:
 - (a) The most that we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.

- (b) Subject to paragraph (a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage. However, if no Covered Property has sustained direct physical loss or damage, the most we will pay for removal of debris of other property (if such removal is covered under this Additional Coverage) is \$5,000 at each location.

- (4) We will pay up to an additional \$25,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

- (a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.
- (b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if paragraphs (a) and/or (b) above apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$25,000.

(5) Examples

Example #1

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 50,000
Amount of Loss Payable	\$ 49,500
(\$50,000 - \$500)	
Debris Removal Expense	\$ 10,000
Debris Removal Expense	

Payable \$ 10,000
(\$10,000 is 20% of \$50,000)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore the full amount of debris removal expense is payable in accordance with the terms of paragraph (3) above.

Example #2

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 80,000
Amount of Loss Payable	\$ 79,500
(\$80,000 - \$500)	
Debris Removal Expense	\$ 40,000
Debris Removal Expense Payable	
Basic Amount	\$ 10,500
Additional Amount	\$ 25,000

The basic amount payable for debris removal expense under the terms of paragraph (3) above is calculated as follows: $\$80,000 (\$79,500 + \$500) \times .25 = \$20,000$ (capped at \$10,500). The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of paragraph (4) above, because the debris removal expense (\$40,000) exceeds 25% of the loss payable plus the deductible (\$40,000 is 50% of \$80,000), and because (from paragraph (3) (a)) the sum of the loss payable and debris removal expense (\$79,500 + \$40,000 = \$119,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$25,000, the maximum payable under paragraph (4) above. Thus the total payable for debris removal expense in this example is \$35,500; \$4,500 of the

debris removal expense is not covered.

b. Preservation of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss of or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 90 days after the property is first moved.

This Additional Coverage does not increase the applicable Limit of Insurance.

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$25,000 for service at each premises described in the Declarations, unless a higher Limit of Insurance is shown in the Declarations. Such limit is the most we will pay regardless of the number of responding fire departments or fire units, and regardless of the number or type of services performed.

This Additional Coverage applies to your liability for fire department services charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

d. Collapse

The coverage provided under this Additional Coverage - Collapse applies only to an abrupt collapse as described and limited in paragraphs (1), (2), (3), (4), (5), (6) and (7) below.

- (1) For the purpose of this Additional Coverage - Collapse, abrupt collapse means an abrupt failing down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.
- (2) We will pay for direct physical loss of or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this policy or that contains Covered Property

insured under this policy, if such collapse is caused by one or more of the following:

- (a) Building decay that is hidden from view, unless the presence of such decay is known to any insured prior to collapse;
 - (b) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to any insured prior to collapse;
 - (c) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation; or
 - (d) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:
 - (i) A cause of loss listed in paragraphs (a) or (b) above of this Additional Coverage;
 - (ii) One or more of the "specified causes of loss";
 - (iii) Breakage of building glass;
 - (iv) Weight of people or personal property; or
 - (v) Weight of rain that collects on a roof.
- (3) This Additional Coverage - Collapse does not apply to:
- (a) A building or any part of a building that is in danger of falling down or caving in;
 - (b) A part of a building that is standing, even if it has separated from another part of the building; or
 - (c) A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
- (4) With respect to the following property:
- (a) Awnings;
 - (b) Gutters and downspouts;

- (c) Yard Fixtures;
- (d) Outdoor swimming pools;
- (e) Beach or diving platforms or appurtenances;
- (f) Retaining walls; and
- (g) Walks, roadways and other paved surfaces;

If an abrupt collapse is caused by a cause of loss listed in paragraph (2), subparagraphs (a), (b), (c) and (d) of this Additional Coverage, we will pay for loss or damage to that property only if such loss or damage is a direct result of the abrupt collapse of a building insured under this Coverage Form and the property is Covered Property under this Coverage Form.

- (5) If personal property abruptly falls down or caves in and such collapse is not the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:
- (a) The abrupt collapse of personal property was caused by a cause of loss listed in paragraph (2), subparagraphs (a), (b), (c) and (d) of this Additional Coverage;
 - (b) The personal property which collapses is inside a building; and
 - (c) The property which collapses is not of a kind listed in paragraph (4) above, regardless of whether that kind of property is considered to be personal property or real property.

The coverage stated in paragraph (5) does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

- (6) This Additional Coverage - Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
- (7) This Additional Coverage - Collapse will not increase **SECTION I - PROPERTY, C. Limits of Insurance.**
- (8) The term Covered Cause of Loss includes the Additional Coverage -

Collapse as described and limited in paragraphs (1), (2), (3), (4), (5), (6) and (7) above.

e. Water Damage, Other Liquids, Powder or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material damage loss occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes.

We will not pay the cost to repair any defect that caused the loss or damage; but we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

- (1) Results in discharge of any substance from an automatic fire protection system; or
- (2) Is directly caused by freezing.

f. Business Income

When Business Income Coverage is provided under this policy:

(1) Business Income

- (a) We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to a described premises shown in the Declarations and for which a Business Income Limit of Insurance is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss.

With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 1,000 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (i) The portion of the building which you rent, lease or occupy;

- (ii) The area within 1,000 feet of the building or within 1,000 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and

- (iii) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.

- (b) We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within the designated, consecutive number of months found on the Declarations Page beginning immediately after the date of direct physical loss or damage. For purposes of this insurance, all recoverable loss ceases when the "period of restoration" ends.

(c) Business Income means the:

- (i) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses;

- (ii) Continuing normal operating expenses incurred, including "payroll expenses". However, if your business is not generating any income because you are primarily in research or development or have not yet brought your product to market, your continuing normal operating expenses, including "payroll expenses", will not be offset by the Net Loss; and

- (iii) "Rental Value".

For manufacturing risks, Net Income includes the net sales value of production.

(2) Extended Business Income

If no Business Income Coverage is provided under this Coverage Form, then there is no Extended Business Income Coverage afforded under this Coverage Form.

(a) Extended Business Income - Other Than Rental Value

If the necessary "suspension" of your "operations" produces a Business Income loss payable under this Coverage Form, we will pay for the actual loss of Business Income you incur during the period that:

(i) Begins on the date property (except "finished stock") is actually repaired, rebuilt or replaced (to the extent necessary to resume "operations") and "operations" are resumed; and

(ii) Ends on the earlier of:

1) The date you could restore your "operations", with reasonable speed, to the level which would generate the Business Income amount that would have existed if no direct physical loss or damage had occurred; or

2) The number of consecutive days shown in the Additional Property - Coverage Schedule for Extended Business Income after the date determined in (a) **Extended Business Income - Other Than Rental Value**, paragraph (i) above.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of Business Income must be caused by direct physical

loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

(b) Extended Business Income - Rental Value

If the necessary "suspension" of your "operations" produces a "rental value" loss payable under this Coverage Form, we will pay for the actual loss of "rental value" you incur during the period that:

(i) Begins the date property is actually repaired, rebuilt or replaced and tenantability is restored; and

(ii) Ends the earlier of:

1) The date you could restore tenant occupancy, with reasonable speed, to the level which would generate the "rental value" that would have existed if no direct physical loss or damage had occurred; or

2) The number of consecutive days shown in the Additional Property Coverage Schedule for Extended Business Income after the date determined in (b) **Extended Business Income - Rental Value**, paragraph (i) above.

However, Extended Business Income does not apply to loss of "rental value" incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of "rental value" must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

(iii) We will reduce the amount of your:

Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged

property (including merchandise or "stock") at the described premises or elsewhere.

- (iv) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

This Additional Coverage is not subject to **SECTION I - PROPERTY, C. Limits of Insurance.**

g. Extra Expense

When Business Income Coverage is provided under this Coverage Form:

- (1) We will pay the necessary Extra Expense you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 1,000 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (a) The portion of the building which you rent, lease or occupy;
- (b) The area within 1,000 feet of the building or within 1,000 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
- (c) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.

- (2) Extra Expense means expense incurred:

- (a) To avoid or minimize the "suspension" of business and

to continue "operations":

- (i) At the described premises; or
- (ii) At replacement premises or at temporary locations, including relocation expenses, and costs to equip and operate the replacement or temporary locations.
- (b) To minimize the "suspension" of business if you cannot continue "operations".
- (c) To:
- (i) Repair or replace any property; or
- (ii) Research, replace or restore the lost information on damaged "valuable papers and records"

to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage or **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverage, f. Business Income.**

With regard to paragraph (i) above, we will pay only for those expenses necessary to expedite the repair or replacement of the property. Under this provision we will not pay for any portion of the ordinary and expected cost to actually repair or replace property.

- (3) We will only pay for Extra Expense that occurs within 12 consecutive months beginning immediately after the date of direct physical loss or damage.
- (4) We will reduce the amount of your Extra Expense loss payment to the extent you can return "operations" to normal and discontinue such Extra Expense.
- (5) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

This Additional Coverage is not subject to **SECTION I - PROPERTY, C. Limits of Insurance.**

h. Pollutant Clean-Up and Removal

We will pay your expense to extract "pollutants" from land or water at the

described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay for each location under this Additional Coverage is \$25,000 for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12 month period of this policy.

I. Civil Authority

When Business Income Coverage is provided under this Coverage Form:

- (1) When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises due to direct physical loss or damage to property within one mile of the described premises, provided that both of the following apply:

- (a) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property;

- (b) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

- (2) Civil Authority Coverage for Business Income will begin 72 hours after the time of the

first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (a) Four consecutive weeks after the date of that action; or
- (b) When your Civil Authority Coverage for Business Income ends;

whichever is later.

- (3) The definitions of Business Income and Extra Expense contained in **SECTION 1 - PROPERTY, A. Coverage, 5. Additional Coverages, f. Business Income; and g. Extra Expense** also apply to this Additional Coverage.

J. Money Orders and Counterfeit Money

- (1) We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, "money" or services:

- (a) Money orders issued by any post office, express company or "financial institution" that are not paid upon presentation; or
- (b) "Counterfeit money" that is acquired during the regular course of business.

- (2) Under this Additional Coverage, all loss:

- (a) Caused by one or more persons; or
 - (b) Involving a single act or series of related acts;
- is considered one occurrence.

- (3) The most we will pay for any loss under this Additional Coverage is \$5,000.

K. Forgery or Alteration

- (1) We will pay for loss resulting directly from forgery or alteration of any:

- (a) Check, draft, promissory note, bill of exchange or similar written promises of payment in "money" that you or your agent has issued, or that was issued

by someone who impersonates you or your agent; and

- (b) Credit, debit or charge slips or documents, including signatures or the entry of a Personal Identification Number (PIN) into a "payment processing device" required with the use of any credit, debit, or charge card issued to you or any "employee" for business purposes.
- (2) Under this Additional Coverage, all loss:
 - (a) Caused by one or more persons; or
 - (b) Involving a single act or series of related acts;is considered one occurrence.
- (3) If you are sued for refusing to pay the check, draft, promissory note, bill of exchange or similar written promises of payment in "money", on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur in that defense.
- (4) For purposes of this Additional Coverage, check includes a substitute check as defined by the United States Congress in the Check Clearing for the 21st Century Act and will be treated the same as the original it replaced.
- (5) The most we will pay for any loss, including legal expenses, under this Additional Coverage is \$25,000, unless a higher Limit of Insurance is shown in the Schedule of Amended Limits of Insurance.

I. Ordinance or Law

- (1) This Additional Coverage applies only to buildings insured on a replacement cost basis.
- (2) **Application of Coverages:**

The coverages provided under this Additional Coverage applies only if paragraphs (a) and (b) below, are satisfied and are then subject to the qualifications found in (c) below.

 - (a) The ordinance or law:
 - (i) Regulates the demolition, construction or repair of buildings, or establishes

zoning or land use requirements at the described premise;

- (ii) Is in force at the time of loss; and
- (iii) Was not in force at the time the involved construction was completed.

But coverage under this Additional Coverage applies only in response to the minimum requirements of the ordinance or law. Losses and costs incurred in complying with recommended actions or standards that exceed actual requirements are not covered under this Additional Coverage.

- (b) The building sustains direct physical damage:

- (i) That is covered under this Coverage Form and as a result of such damage, you are required to comply with the ordinance or law; or
- (ii) That is covered under this Coverage Form and direct physical damage that is not covered under this Coverage Form and as a result of the building damage in its entirety, you are required to comply with the ordinance or law.
- (iii) But if the damage is not covered under this Coverage Form and such damage is the subject of the ordinance or law, then there is no coverage under this Additional Coverage even if building has also sustained covered direct physical damage.

- (c) In the situation described in

(2) **Application of Coverages,** paragraph (b), subparagraph (ii) above, we will not pay the full amount of loss otherwise payable under the terms of coverages for Coverage for Loss to the Undamaged Portion of the Building, Demolition Cost Coverage or Increased Cost of Construction Coverage. Instead, we will pay a proportion of such loss, meaning the proportion that



the covered direct physical damage bears to the total direct physical damage. Paragraph (7) of this coverage provides an example of this procedure.

However, if the covered direct physical damage alone would have resulted in a requirement to comply with the ordinance or law, then we will pay the full amount of the loss otherwise payable under the terms of Coverages for Loss to the Undamaged Portion of the Building, Demolition Cost Coverage or Increased Cost of Construction Coverage under this Additional Coverage.

(3) We will not pay under this Additional Coverage for:

(a) Enforcement of or compliance with any ordinance or law which requires the demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot; or

(b) The costs associated with the enforcement of or compliance with any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungi", wet rot or dry rot.

(4) Coverage

(a) Coverage for Loss to the Undamaged Portion of the Building

With respect to the building that has sustained covered direct physical damage, we will pay under this Additional Coverage for the loss in value of the undamaged portion of the building as a consequence of a requirement to comply with an ordinance or law that requires demolition of undamaged parts of the same building. Coverage for Loss to the Undamaged Portion of the Building is included within the Limit of Insurance shown in the

Declarations as applicable to the covered building. Coverage for Loss to the Undamaged Portion of the Building does not increase the Limit of Insurance.

(b) Demolition Cost Coverage

With respect to the building that has sustained covered direct physical damage, we will pay the cost to demolish and clear the site of the undamaged parts of the same building, as a consequence of a requirement to comply with an ordinance or law that requires demolition of such undamaged property.

SECTION I - PROPERTY, E. Property Loss Conditions, 5. Loss Payment, paragraph d. does not apply to Demolition Cost Coverage.

(c) Increased Cost of Construction

With respect to the building that has sustained covered direct physical damage, we will pay the increased cost to:

(i) Repair or reconstruct damaged portions of that building; and/or

(ii) Reconstruct or remodel undamaged portions of that building, whether or not demolition is required;

when the increased cost is a consequence of a requirement to comply with the minimum standards of the ordinance or law.

However:

(i) This coverage applies only if the restored or remodeled property is intended for similar occupancy as the current property, unless such occupancy is not permitted by zoning or land use ordinance or law.

(ii) We will not pay for the increased cost of construction if the building is not repaired, reconstructed or remodeled.

SECTION I - PROPERTY, E. Property Loss Conditions, 5. Loss Payment, paragraph d. does not apply to the Increased Cost of Construction Coverage.

(5) Loss Payment

(a) Loss Payment provisions (b), (c), (d) and (e) below are subject to the apportionment procedure set forth in above **Application of Coverages**, paragraph (2)(c).

(b) When there is a loss in value of an undamaged portion of the building to which Coverage for Loss to the Undamaged Portion of the Building applies, the loss payment for that building, including damaged and undamaged portions, will be determined as follows:

(i) If the property is repaired or replaced on the same or another premise, we will not pay more than the lesser of:

1) The amount you actually spend to repair, rebuild or reconstruct the building, but not for more than the amount it would cost to restore the building on the same premises and to the same height, floor area, style and comparable quality of the original property insured; or

2) The Limit of Insurance shown in the Declarations as applicable to the covered building.

(ii) If the property is not repaired or replaced. We will not pay more than the lesser of:

1) The actual cash value of the building at the time of loss; or

2) The Limit of Insurance shown in the Declarations as applicable to the covered building.

(c) The most we will pay for the total of all covered losses for Demolition Cost Coverage and Increased Cost of Construction is the Limit of Insurance shown in paragraph (d) below. Subject to this combined Limit of Insurance, the following loss payment provisions apply:

(i) For Demolition Cost Coverage, we will not pay for more than the amount

you actually spend to demolish and clear the site of the described premises.

(ii) Loss payment under Increased Cost of Construction Coverage will be determined as follows:

1) We will not pay for the Increased cost of construction until the property is actually repaired or replaced at the same or another premises; and

2) Unless the repairs or replacement is made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

(iii) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction Coverage is the lesser of:

1) The Increased cost of construction at the same premises; or

2) The Limit of Insurance described in paragraph (d) below.

(iv) If the ordinance or law requires relocation to another premise, the most we will pay for the increased cost of construction is the lesser of:

1) The Increased cost of construction at the new premises; or

2) The Limit of Insurance described in paragraph (d) below.

(d) The most we will pay for the total of all covered losses for Demolition Cost and Increased Cost of Construction for each building described in the Declarations is \$5,000 or the amount shown in the Additional Property Schedule.

If a damaged building(s) is covered under a Blanket Limit of Insurance and the Blanket Limit of Insurance applies to more than one building or item of property, then the most we will under this Additional Coverage, for each building, is \$5,000, or the amount shown in the Additional Property Coverage Schedule.

- (6) Under this coverage, we will not pay for loss due to any ordinance or law that:

- (a) You were required to comply with before the loss, even if the building was undamaged; and
- (b) You failed to comply with.

- (7) Example of Proportionate Loss Payment for Ordinance or Law Coverage losses (procedures as set forth in paragraph (2)(c) of this Additional Coverage).

Assume:

- Wind is a Covered Cause of Loss; "Flood" is an excluded Cause of Loss
- The building has value of \$200,000
- The total direct physical damage to the building: \$100,000;
- The ordinance or law in this jurisdiction is enforced when building damage equals or exceeds 50% of the building's value;
- Portion of direct physical damage that is covered (caused by wind): \$30,000;
- Portion of direct physical damage that is not covered (caused by "flood"): \$70,000; and
- Loss under Increased Cost of Construction: \$60,000

Step 1: Determine the proportion that the covered direct physical damage bears to the total direct physical damage.

$$\$30,000 \text{ divided by } \$100,000 = .30$$

Step 2: Apply that portion to the Ordinance or Law loss.

$$\$60,000 \times .30 = \$18,000$$

In this example, the most we will pay under this Additional Coverage for the Increased Cost of

Construction loss is \$18,000, subject to the applicable Limit of Insurance and any other applicable provisions.

Note: The same procedure applies to losses under Loss to the Undamaged Portion of the Building and Demolition Cost of this Additional Coverage.

m. Business Income from Dependent Properties

When Business Income Coverage is provided under this Coverage Form:

- (1) We will pay for the actual loss of Business Income you sustain due to direct physical loss or damage at the premises of a "dependent property" caused by or resulting from any Covered Cause of Loss.

However, this Additional Coverage does not apply when the only loss at the premises of a "dependent property" is loss or damage to "electronic data", including destruction or corruption of "electronic data". If the "dependent property" sustains loss or damage to "electronic data" and other property, coverage under this Additional Coverage will not continue once the other property is repaired, rebuilt or replaced.

- (2) The most we will pay under this Additional Coverage is \$5,000 per occurrence, regardless of the number of "dependent properties" affected.
- (3) We will reduce the amount of your Business Income loss, other than Extra Expense, to the extent you can resume "operations", in whole or in part, by using any other available:
- (a) Source of materials; or
 - (b) Outlet for your products.
- (4) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.
- (5) The coverage period for Business Income under this Additional Coverage:

- (a) Begins 72 hours after the time of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the premises of the "dependent property"; and

(b) Ends on the date when the property at the premises of the "dependent property" should be repaired, rebuilt or replaced (to the extent necessary to resume "operations") with reasonable speed and similar quality or 12 months immediately following the date of direct physical loss or damage, whichever is shorter.

(6) The Business Income coverage period, as stated in paragraph (4) above, does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:

(a) Regulates the construction, use or repair, or requires the tearing down of any property; or

(b) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this Coverage Form will not reduce the Business Income coverage period.

(7) The definition of Business Income contained in the Business Income Additional Coverage also applies to this Business Income from Dependent Properties Additional Coverage.

n. Glass Expenses

When glass is damaged from a Covered Cause of Loss we will pay for your expenses incurred to:

(1) Put up temporary plates or board up openings if repair or replacement of damaged glass is delayed;

(2) Replace lettering, artwork, sensors or other items permanently affixed to, or a part of, the damaged glass; and

(3) Remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

o. Fire Protection Equipment Recharge

(1) We will pay:

(a) The cost of recharging or replacing, whichever is less, your fire extinguishers and fire extinguishing systems

(including hydrostatic testing if needed) if they are discharged on or within 1,000 feet of the described premises; and

(b) For loss or damage to Covered Property if such loss or damage is the result of an accidental discharge of chemicals from a fire extinguisher or a fire extinguishing system.

(2) No coverage will apply if the fire extinguishing system is discharged during installation or testing.

(3) The most we will pay under this Additional Coverage is \$25,000 in any one occurrence. The deductible does not apply to these expenses.

p. Employee Theft Including ERISA Compliance

(1) We will pay for loss or damage to "money", "securities" and "other property" resulting directly from "theft" committed by an "employee", clergy, or any non-compensated person whether identified or not, acting alone or in collusion with other persons.

For the purposes of this Additional Coverage, "theft" shall also include "forgery".

(2) This Additional Coverage terminates as to any "employee" as soon as:

(a) You; or

(b) Any of your partners, "members", "managers", officers, directors or trustees not in collusion with the "employee";

"Discovered" the "theft" or any other dishonest act committed by the "employee" whether before or after becoming employed by you.

(3) Under this Additional Coverage, all loss:

(a) Caused by one or more persons; or

(b) Involving a single act or series of related acts;

is considered one occurrence.

(4) We will pay only for loss you sustain through acts committed or events occurring anytime which is "discovered" by you:

(a) During the policy period; or

- (b) No later than 1 year from the date of termination or cancellation of this Insurance. However this extended period to "discover" loss terminates immediately upon the effective date of any other Insurance obtained by you, whether from us or another insurer, replacing in whole or in part the coverage afforded under this Additional Coverage, whether or not such other Insurance provides coverage for loss sustained prior to its effective date.
- (5) You may extend this coverage to apply to loss caused by any "employee" while temporarily outside the Coverage Territory for a period of not more than 90 days.
- (6) The most we will pay for all loss resulting directly from an occurrence is \$10,000 or the Limit of Insurance shown in the Additional Property Coverage Schedule. Regardless of the number of years this policy remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year.
- (7) Special Employee Theft Exclusions**
We will not pay for:
- (a) Loss resulting from "theft" or any other dishonest act committed by:
- (i) You; or
 - (ii) Any of your partners or "members";
- Whether acting alone or in collusion with other persons.
- (b) Loss caused by an "employee" if the "employee" has also committed "theft" or any other dishonest act prior to the effective date of this policy and you or any of your partners, "managers", officers, directors or trustees, not in collusion with the "employee", learned of that "theft" or dishonest act prior to the policy period shown in the Declarations.
- (c) Loss resulting from "theft" or any other dishonest act committed by any of your "employees", "managers", directors, trustees or authorized representatives:

- (i) Whether acting alone or in collusion with other persons; or
 - (ii) While performing services for you or others;
- Except when covered under this Additional Coverage.
- (d) Loss that is an indirect result of an occurrence covered by this Additional Coverage, including, but not limited to, loss resulting from:
- (i) Your inability to realize income that you would have realized had there been no loss of or damage to "money", "securities" or "other property";
 - (ii) Payment of damages of any type for which you are legally liable;
 - (iii) Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this Additional Coverage.
- (e) Fees, costs and expenses incurred by you which are related to any legal action.
- (f) Loss or that part of any loss, the proof of which as to its existence or amount is dependent upon:
- (i) An inventory computation; or
 - (ii) A profit and loss computation.
- However, where you establish wholly apart from such computations that you have sustained a loss, then you may offer your inventory records and actual physical count of inventory in support of the amount of loss claimed.
- (g) Loss resulting from trading, whether in your name or in a genuine or fictitious account.
- (h) Loss resulting from fraudulent or dishonest signing, issuing, cancelling or failing to cancel, a warehouse receipt or any papers connected with it.
- (i) Loss resulting from:
- (i) The unauthorized disclosure of your

confidential Information including, but not limited to, patents, trade secrets, processing methods or customer lists; or

- (II) The unauthorized use or disclosure of confidential Information of another person or entity which is held by you including, but not limited to, financial Information, personal Information, credit card Information or similar non public Information.

(8) Welfare and Pension Plan ERISA Compliance

- (a) The "employee benefit plan" (hereafter referred to as Plan) is included as an Insured under this Additional Coverage.
- (b) If any Plan is Insured jointly with any other entity under this Additional Coverage, you or the Plan Administrator must select a Limit of Insurance for this Additional Coverage that is sufficient to provide a Limit of Insurance for each Plan that is at least equal to that required if each Plan were separately Insured.
- (c) With respect to loss sustained or "discovered" by any such Plan, paragraph (1) above, of this Additional Coverage is replaced by the following:
 - (1) We will pay for loss of or damage to "funds" and "other property" resulting directly from fraudulent or dishonest acts committed by an "employee", whether identified or not, acting alone or in collusion with other persons.
- (d) If the first Named Insured is an entity other than a Plan, any payment we make for loss sustained by any Plan will be made to the Plan sustaining the loss.
- (e) If two or more Plans are Insured under this Additional Coverage, any payment we make for loss:
 - (i) Sustained by two or more Plans; or
 - (ii) Of commingled "funds" or "other property" of two or more Plans;

Resulting from an occurrence, will be made to each Plan sustaining loss in the proportion that the Limit of Insurance required for each Plan bears to the total Limit of Insurance of all Plans sustaining loss.

- (f) The deductible does not apply to this Additional Coverage.

q. Rewards - Arson, Theft and Vandalism

- (1) We will reimburse you for payment of any reward offered on your behalf and for Information that leads to the arrest and conviction of the person or persons responsible for:
 - (a) Arson;
 - (b) "Theft" or
 - (c) Vandalismto Covered Property.
- (2) The arrest or conviction must involve a covered loss caused by arson, "theft" or vandalism.
- (3) The most we will pay under this Additional Coverage is \$10,000 unless a higher Limit of Insurance is shown in the Additional Property Coverage Schedule. The amount we pay is not increased by the number of persons involved in providing the Information.
- (4) The amount payable under this Additional Coverage is additional Insurance.
- (5) The deductible does not apply to this Additional Coverage.

r. Computer Equipment

- (1) We will pay for direct physical loss of or damage to the following Covered Property which is your property or property in your care, custody or control while at or away from the described premises when loss or damage is caused by or resulting from a Covered Cause of Loss:
 - (a) "Computer equipment"; and
 - (b) Programming documentation and instruction manuals.
- (2) We will pay for the actual loss of Business Income you sustain as described in the Business Income Additional Coverage and we will pay for any necessary Extra Expense you incur during the "period of restoration"

as described in the Extra Expense Additional Coverage.

- (3) In the event of a loss of or damage to "Computer equipment" by a Covered Cause of Loss, we will pay your costs to modify or replace undamaged "hardware" or "software" when it:

- (a) Was dependent on the damaged "hardware" or "software" prior to the covered loss; and
- (b) Is not compatible with the "hardware" or "software" that is replacing the property that was involved in the covered loss.

We will only pay for your costs to modify or replace undamaged "hardware" or "software" at a premises described in the Declarations.

The most we will pay for your costs covered in any one occurrence is \$10,000.

- (4) We will not pay for any loss of or damage to the following property:

- (a) Property you rent, loan or lease to others while it is away from the described premises;
- (b) Property you hold for sale, distribute or manufacture except as provided in **SECTION I - PROPERTY, A. Coverage, 1. Covered Property**, paragraph b.; or
- (c) "Software" that cannot be duplicated or replaced with similar property of equal quality and/or substantially similar functionality.

- (5) If we provide Building coverage only, we will only pay for loss to "computer equipment" that service building operations at the described premises and are located at the described premises.

- (6) The most we will pay for any loss or damage to property described in paragraphs (1) and (2) above, is \$35,000 unless a higher Limit of Insurance is shown in the Additional Property Coverage Schedule for Computer Equipment. The most we will pay for Extra Expense is \$5,000 unless a higher Limit of Insurance is shown in the Additional Property Coverage Schedule for Extra Expense.

- (7) The following in **SECTION I - PROPERTY, B. Exclusions**, paragraph 1. do not apply to this Additional Coverage:

- (a) b. Earth Movement; and
- (b) g. Water.

- (8) **Special Computer Equipment Exclusions**

We will not pay for loss or damage to portable electronic devices when caused by, resulting from, or arising out of "theft" or unexplained loss when the property is checked baggage with a carrier for transit. Portable electronic devices includes laptops, tablets, e-readers, smartphones or other lightweight, hand-held or wearable devices capable of storing, retrieving and processing data.

s. Money and Securities

- (1) We will pay for loss of "money" and "securities":

- (a) Inside a building at the described premises or "financial institution" resulting directly from "theft" committed by a person present inside a building at the described premises or "financial institution";
- (b) Inside a building at the described premises or "financial institution" resulting directly from disappearance or destruction; or
- (c) Outside of a building at or away from the described premises in the care and custody of a "messenger" or an armored motor vehicle company resulting directly from "theft", disappearance or destruction.

- (2) For the purposes of this Additional Coverage, all loss:

- (a) Caused by one or more persons; or
- (b) Involving a single act or series of related acts;

is considered one occurrence.

- (3) You must keep records of all "money" and "securities" so we can verify the amount of any one loss or damage.
- (4) The amount payable under this Additional Coverage is additional insurance.

(5) The most we will pay for loss in any one occurrence is:

(a) \$10,000 or the amount shown in the Additional Property Coverage Schedule while:

(i) Inside a building at the described premises; or

(ii) Within a "financial institution" in the Coverage Territory; and

(b) \$5,000 or the amount shown in the Additional Property Coverage Schedule while outside of a building at the described premises or when away from the described premises in the Coverage Territory.

(6) Special Money and Securities Exclusions

We will not pay for loss:

(a) Resulting from accounting or arithmetic errors or omissions;

(b) Resulting from giving or surrendering of property in any exchange or purchase;

(c) Of property contained in any money-operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device; or

(d) Loss or damage to "money" and "securities" following and directly related to the use of any computer to fraudulently cause a transfer of that property.

t. Tenant Signs (Tenants only)

(1) This Additional Coverage is available only when the Named Insured is a tenant and a Limit of Insurance is shown in the Declarations Page for Business Personal Property.

We will pay for direct physical loss of or damage to all signs:

(a) Owned by you; or

(b) Owned by others but in your care, custody or control;

when loss or damage is caused by or resulting from a Covered Cause of Loss.

(2) **SECTION I - PROPERTY, A. Coverage, 3. Covered Causes of Loss** does not apply to this Additional Coverage and **SECTION I -**

PROPERTY, B. Exclusions, paragraph 1. does not apply to this Additional Coverage except for the following:

(a) **c. Government Action;**

(b) **d. Nuclear Hazard; and**

(c) **f. War and Military Action.**

(3) We will not pay for loss or damage caused by or resulting from:

(a) Wear and tear;

(b) Hidden or latent defect;

(c) Rust;

(d) Corrosion; or

(e) Mechanical Breakdown, except as provided for in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, u. Equipment Breakdown.**

(4) The most we will pay for loss or damage in any one occurrence is \$5,000 regardless of the number of locations or buildings involved.

u. Equipment Breakdown

(1) We will pay for direct physical damage to Covered Property that is the direct result of an "accident" or "electronic circuitry impairment". We will consider "electronic circuitry impairment" to be physical damage to "covered equipment".

(2) The following coverages also apply to the direct result of an "accident" or "electronic circuitry impairment". However, with respect to coverage **A.5.u.(2)(h) Utility Services - Equipment Breakdown (Accident)** and **A.5.m. Business Income from Dependent Properties** provided in this coverage form, coverage will apply only to the direct result of an "accident" and will not apply to the direct result of an "electronic circuitry impairment". These coverages do not provide additional amounts of insurance.

(a) Data Restoration

We will pay for your reasonable and necessary cost to research, replace and restore lost "data".

The most we will pay for loss or expense under this coverage, including actual loss of Business Income you sustain and



necessary Extra Expense you incur is \$50,000.

(b) Expediting Expenses

With respect to your damaged Covered Property, we will pay, up to \$50,000, the reasonable extra cost to:

- (i) Make temporary repairs; and
- (ii) Expedite permanent repairs or permanent replacement.

(c) Fungl, Wet Rot, or Dry Rot

(i) We will pay the additional cost to repair or replace Covered Property because of contamination by "fungl", wet rot or dry rot. This includes the additional costs to clean up or dispose of such property. This does not include spoilage of personal property that is "perishable goods" to the extent that such spoilage is covered under Spoilage coverage.

(ii) As used in this coverage, additional costs mean those beyond what would have been payable under this Equipment Breakdown Coverage had no "fungl", wet rot or dry rot been involved.

(iii) We will also pay the cost of testing performed after repair or replacement of the damaged Covered Property is completed only to the extent that there is reason to believe there is the presence of "fungl", wet rot or dry rot.

(iv) This coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.

(v) The most we will pay in any "one equipment breakdown" for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, if shown as covered, is \$15,000 even if the "fungl", wet rot or dry rot continues to be present or active or recurs in a later policy period.

(d) Hazardous Substances

We will pay for the additional cost to repair or replace Covered Property because of a contamination by a "hazardous substance".

This includes the additional costs to clean up or dispose of such property. This does not include contamination of "perishable goods" by refrigerant, including but not limited to ammonia, which is addressed in (g) Spoilage below. Additional costs mean those beyond what would have been payable had no "hazardous substance" been involved. The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain, and necessary Extra Expense you incur is \$50,000.

(e) Personal Property Off Premises Equipment Breakdown

(i) Any direct physical damage for personal property off premises provided under Coverage Extension b. Personal Property Off Premises, also applies to the direct result of an "accident" or "electronic circuitry impairment".

(ii) We will also pay for your reasonable and necessary cost to research, replace and restore lost "electronic data" contained within "covered equipment" when due to covered loss or damage as described in (i) above. This amount may not exceed the limit applicable to Data Restoration coverage.

(iii) The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur and Data Restoration as described in (ii) above is \$50,000.

(f) Public Relations

(i) This coverage only applies if you have sustained an actual loss of Business Income.

(ii) We will pay for your reasonable costs for professional services to create and disseminate communications, when the need for such communications arises directly from the interruption of your business. This communication must be directed to one or more of the following:

- 1) The media;
- 2) The public; or
- 3) Your customers, clients or members.

(iii) Such costs must be incurred during the "period of restoration" or up to 30 days after the "period of restoration" has ended.

(iv) The most we will pay for loss or expense under this coverage is \$5,000.

(g) Spoilage

(i) We will pay for:

- 1) Physical damage to your "perishable goods" due to spoilage.
- 2) Physical damage to your "perishable goods" due to contamination from the release of refrigerant, including but not limited to ammonia.
- 3) Any necessary expenses you incur to reduce the amount of loss under this coverage. We will pay for such expenses to the extent that they do not exceed the amount of loss that otherwise would have been payable under this coverage.

(ii) If you are unable to replace "perishable goods" before its anticipated sale, the amount of our payment will be determined on the basis of the sales price of the "perishable goods" at the time of the

"accident" or "electronic circuitry impairment", less discounts and expenses you otherwise would have had. Otherwise our payment will be determined in accordance with the Loss Payment Condition.

(iii) The most we will pay for loss or damage under this coverage is \$50,000.

(h) Utility Services - Equipment Breakdown (Accident)

(i) Any insurance provided for Business Income, Extra Expense, Data Restoration or Spoilage is extended to apply to your loss, damage or expense caused by a failure or disruption of service. The failure or disruption of service must be caused by an "accident" to equipment, including overhead transmission lines, that is owned by a utility, landlord, a landlord's utility or other supplier who provides you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, Internet access, telecommunications services, "cloud computing services", wide area networks or data transmission. The equipment must meet the definition of "covered equipment" except that it is not Covered Property.

(ii) "Cloud computing services" must be provided by a professional provider with whom you have a contract.

(iii) With respect to the Data Restoration portion of this Service Interruption coverage, coverage will also apply to "data" stored in the equipment of a provider of "cloud computing services".

(iv) Any insurance provided for Business Income or Data Restoration will not apply



under this Service Interruption coverage unless the failure or disruption of service exceeds 24 hours. Immediately following the "accident", if the interruption exceeds 24 hours, coverage will begin at the time of the disruption, and the applicable deductible will apply.

- (v) The most we will pay in any "one equipment breakdown" for loss, damage or expense under this coverage is the applicable limit for Business Income, Extra Expense, Data Restoration or Spoilage.

(3) Conditions

(a) Suspension

When any "covered equipment" is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an "accident" or "electronic circuitry impairment" to that "covered equipment". We can do this by mailing or delivering a written notice of suspension to:

- (i) Your address as shown in the Declarations; or
(ii) The address where the "covered equipment" is located.

Once suspended in this way, your insurance can be reinstated only by an endorsement for that "covered equipment". If we suspend your insurance, you will get a pro rata refund of premium for that "covered equipment". But the suspension will be effective even if we have not yet made or offered a refund.

(b) Jurisdictional Inspections

If any property that is "covered equipment" under this Additional Coverage requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

(c) Environmental, Safety and Efficiency Improvements

If "covered equipment" requires replacement due to an "accident" or "electronic circuitry impairment", we will pay your additional cost to replace with equipment that is better for the environment, safer for people or more energy or water efficient than the equipment being replaced. However, we will not pay to increase the size or capacity of the equipment and we will not pay more than 150% of what the cost would have been to replace with like kind and quality. This provision does not apply to the replacement of component parts or to any property to which Actual Cash Value applies and does not increase any of the applicable limits.

(4) Special Equipment Breakdown Exclusions

- (a) We will not pay for loss, damage or expense caused by or resulting from a hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel, or an electrical insulation breakdown test of any type of electrical equipment.

- (b) With respect to Business Income, Extra Expense and Utility Services coverages, we will also not pay for:

- (i) Loss caused by your failure to use due diligence and dispatch, and all reasonable means to resume business; or
(ii) Any increase in loss resulting from an agreement between you and your customer or supplier.

- (c) Except as provided under u.2.(c) "Fungi", Wet Rot or Dry Rot coverage we will not pay for loss, damage or expense caused directly or indirectly by the following, whether or not caused by or resulting from an "accident" or "electronic circuitry impairment": Any "fungi," wet rot or dry rot, including any presence, growth, proliferation, spread or any activity of "fungi," wet rot or dry rot. This includes, but is not

limited to, costs arising from clean up, removal, or abatement of such "fungi," wet rot or dry rot. However, this exclusion does not apply to spoilage of personal property that is "perishable goods," to the extent that such spoilage is covered under Spoilage coverage.

(d) This Additional Coverage - Equipment Breakdown does not apply to an "accident" or "electronic circuitry impairment" caused by or resulting from:

(i) Fire (including fire resulting from an "accident" or "electronic circuitry impairment"), or water or other means used to extinguish a fire;

(ii) Explosion of gas or unconsumed fuel within the furnace of any boiler or fired vessel or within the passages from that furnace to the atmosphere;

(iii) Any other explosion, except as specifically covered under this Additional Coverage;

(iv) Vandalism;

(v) Lightning; smoke; aircraft or vehicles; riot or civil commotion; sprinkler leakage; elevator collision;

(vi) Windstorm or hail; However, this exclusion does not apply when:

1) "Covered equipment" located within a building or structure suffers an "accident" or "electronic circuitry impairment" that results from wind-blown rain, snow, sand or dust; and

2) The building or structure did not first sustain wind or hail damage to its roof or walls through which the rain, snow, sand or dust entered.

(vii) Breakage of glass; falling objects; weight of snow, ice or sleet; freezing (caused by cold weather); collapse or molten material;

(viii) "Flood", surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not; mudslide or mudflow; or water that backs up or overflows from a sewer, drain or sump. However, if electrical "covered equipment" requires drying out because of the above, we will pay for the direct expenses of such drying out subject to the applicable Limit of Insurance and deductible for Building or Business Personal Property, whichever applies.

(ix) Any earth movement, including but not limited to earthquake, subsidence, sinkhole collapse, landslide, earth sinking, tsunami or volcanic action.

(e) Special Equipment Breakdown Exclusions (5)(d)(v), (5)(d)(vi) and (5)(d)(vii) shall not apply if:

(i) The excluded cause of loss occurs away from any covered location and causes an electrical surge or other electrical disturbance;

(ii) Such surge or disturbance is transmitted through utility service transmission lines to the covered location and results in an "accident" or "electronic circuitry impairment"; and

(iii) The loss, damage or expense caused by such surge or disturbance is not covered elsewhere under the policy.

(f) We will not pay under this Additional Coverage for any loss or damage to animals.

The most we will pay for loss, damage or expense arising from any "one equipment breakdown" is the applicable Limit of Insurance shown in the Declarations. This Additional Coverage does not provide an additional amount of insurance.



v. Commercial Tools and Small Equipment

- (1) This Additional Coverage is available only when a Limit of Insurance is shown in the Declarations for Business Personal Property.
- (2) We will pay for direct physical loss of or damage caused by or resulting from a Covered Cause of Loss to commercial tools and small equipment, including their:
 - (a) Accessories, whether attached or not attached; and
 - (b) Spare parts that are specifically designed and intended for use in the maintenance and operation of property covered under this Additional Coverage;

That is:

- (c) Your property;
 - (d) The property of others in your care, custody or control; or
 - (e) The property of your "employees".
- Damage to the property of your "employees" is limited to while on the described premises.

Commercial Tools and Small Equipment does not include communication devices and diagnostic equipment unless otherwise covered in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, r. Computer Equipment.**

- (3) This coverage only applies to any one tool or piece of small equipment with a replacement cost value of \$2,500 or less, unless listed on a schedule included with this policy.
- (4) The most we will pay for any loss under this Additional Coverage in any one occurrence is \$5,000 unless a higher Limit of Insurance is shown in the Additional Property Coverage Schedule, but not more than \$2,500 for any one tool, tool box or piece of small equipment.
- (5) In addition to items listed within **SECTION I - PROPERTY, A. Coverage, 2. Property Not Covered**, we will not pay for any loss to the following property:
 - (a) Watercraft or watercraft parts and equipment;

- (b) Commercial tools and small equipment that are permanently mounted to a vehicle, including trailers;

- (c) Tires or tire tubes, attached or unattached, for use with commercial tools and small equipment, unless the loss or damage is caused by "theft", malicious mischief, or any of the "specified causes of loss"; or

- (d) Any property while underground, airborne or waterborne.

- (6) The following **SECTION I - PROPERTY, B. Exclusions**, in paragraph 1, do not apply to this Additional Coverage:

- (a) b. Earth Movement;
- (b) g. Water.

- (7) **Special Commercial Tools and Small Equipment Exclusion**

We will not pay for any loss caused by or resulting from any repair, adjusting, servicing, testing or maintenance process unless fire or explosion ensues, then only for the loss caused by such ensuing fire or explosion.

w. Installation

- (1) This Additional Coverage is available only when a Limit of Insurance is shown in the Declarations for Business Personal Property.
- (2) We will pay for direct physical loss of or damage to property sold under an installation agreement where your insurable interest continues until the property is accepted by the purchaser for whom the project is to be performed. Coverage applies under this Additional Coverage when the loss or damage is caused by or resulting from any Covered Cause of Loss.
- (3) The property under which this insurance applies includes:
 - (a) Materials, supplies, equipment, machinery, fixtures owned by you or in your care, custody or control, and which are to be installed by you or at your direction; and
 - (b) Temporary structures built or assembled on-site, including cribbing, scaffolding and construction forms.

This property is covered while:

- (c) At any jobsite you do not own, lease or operate;
 - (d) Awaiting and during installation, or awaiting acceptance by the purchaser;
 - (e) "In transit"; or
 - (f) At a temporary storage location.
- (4) Coverage provided under this Additional Coverage will end when one of the following first occurs:
- (a) This policy expires or is cancelled;
 - (b) The property covered under this Additional Coverage is accepted by the purchaser;
 - (c) Your interest in the property covered under this Additional Coverage ceases;
 - (d) You abandon the project to be performed by you for the purchaser, with no intention to complete it; or
 - (e) 90 days after the project to be performed by you for the purchaser is completed, unless we specify a different date in writing.
- (5) In addition to **SECTION I - PROPERTY, A. Coverage, 2. Property Not Covered**, the following property is not covered with respect to this Additional Coverage:
- (a) An existing building or structure to which an addition, alteration, improvement or repair is being made;
 - (b) Property stored at a permanent premises that you own;
 - (c) A plan, blueprint, design or specification;
 - (d) Trees, grass, sod, shrubbery or plants; and
 - (e) Machinery, tools, equipment, supplies or similar property that does not become a permanent part of the project. This includes contractor's equipment and other tools belonging to a contractor or sub-contractor.
- (6) **Special Installation Exclusions**
We will not pay for any loss caused by or resulting from:

- (a) The cost to make good or replace faulty or defective materials or workmanship;
 - (b) Testing. However, if testing results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion;
 - (c) A fault, defect, deficiency, error or omission in a plan, blueprint, design or specification;
 - (d) The weight of a load when it exceeds the designed capacity of any property covered under this Additional Coverage to lift, move or support the load from any position; or
 - (e) Collision, upset or overturn of any property covered under this Additional Coverage to the extent of any loss of or damage to the tires or inner tubes of such property. But we will pay for the loss of or damage to the tires or inner tubes if the same accident causes other covered loss to the same property covered under this Additional Coverage.
- (7) The following in **SECTION I - PROPERTY, B. Exclusions, paragraph 1.** do not apply to this Additional Coverage:
- (a) b. Earth Movement; and
 - (b) g. Water.
- (8) The most we will pay for loss of or damage to property covered under this Additional Coverage in any one occurrence is \$5,000, regardless if the property is located at a jobsite, while "in transit", or at a temporary storage location.
- This Additional Coverage does not increase **SECTION I - PROPERTY, C. Limits of Insurance.**

x. Fine Arts

- (1) We will pay for direct physical loss to "fine arts" which are your property or the property of others in your care, custody or control while on the described premises. We also cover your "fine arts" while temporarily on display or exhibit away from the described premises or while "in transit" between the described premises and a location where the

"fine arts" will be temporarily on display or exhibit.

- (2) The following of **SECTION I - PROPERTY, B. Exclusions**, paragraph 1. do not apply to this Additional Coverage:

- (a) b. Earth Movement; and
- (b) g. Water

- (3) The most we will pay for any loss under this Additional Coverage is \$10,000 per occurrence regardless of the number of locations or buildings involved.

- (4) **Special Fine Arts Exclusion**

We will not pay for any loss caused by or resulting from:

- (a) Breakage of statuary, glassware, bric-a-brac, marble, porcelain and similar fragile property. But we will pay if the loss or damage is caused directly by a "specified cause of loss", earthquake or "flood"; and
- (b) Any repairing, restoration or retouching of the "fine arts".

y. Sales Representative Samples

- (1) We will pay for direct physical loss or damage by a Covered Cause of Loss to samples of your "stock" in trade (including containers) while:

- (a) In the custody of your sales representative, agent or any "employee" who travels with sales samples;
- (b) In your custody while acting as a sales representative; or
- (c) "In transit" between the described premises and your sales representatives.

- (2) The following of **SECTION I - PROPERTY, B. Exclusions**, paragraph 1. do not apply to this Additional Coverage:

- (a) b. Earth Movement; and
- (b) g. Water

- (3) The most we will pay for any loss or damage under this Additional Coverage is \$5,000 unless a higher Limit of Insurance is shown in the Additional Property Coverage Schedule.

- (4) We will not pay for loss to the following property:

- (a) Property which has been sold;
- (b) Jewelry, precious or semiprecious stones, gold, silver, platinum or other precious metals or alloys;
- (c) Fur, fur garments or garments trimmed with fur; or
- (d) Any property while waterborne.

z. Leasehold Interest (Tenants Only)

- (1) If your lease is cancelled due to direct physical damage to property at the described premises caused by or resulting from a Covered Cause of Loss, we will pay the net loss you sustain due to increased rent under a replacement lease.

- (2) The most we will pay for loss because of the cancellation of any lease or leases due to the same covered cause of loss is the lesser of:

- (a) If your lease is cancelled and either:

- (i) Your landlord allows you to continue to use your premises under a new lease not to exceed the prevailing lease rate, or

- (ii) You relocate to other permanent premises and enter into a new lease.

For the duration of the lease in effect at the time of the loss, we will pay the increase in rent between what you were paying at the time of loss and the rent you will be required to pay for equivalent premises under the replacement lease;

- (b) \$10,000; or

- (c) Nothing if there is not a written or legally binding lease.

- (3) The following applies to paragraph (2), subparagraphs (a)(i) and (a)(ii) above:

- (a) If the lease in effect at the time of the loss contains a renewal option, the expiration date of the renewal option period will replace the expiration of the current lease.

- (b) If the lease has no end date (open-ended), we will pay the difference in rent for a period of no more than 24 months after the date of the direct physical damage to the property at the described premises.

(4) The following applies to paragraph (2), subparagraphs (a) and (b) above:

(a) \$10,000 will be the maximum amount payable regardless of the number of leases affected by the same Covered Cause of Loss.

(b) Existence of a renewal option will not increase, or have any other effect on this Limit of Insurance.

(5) Special Leasehold Interest Exclusion

We will not pay for any loss or damage:

(a) If the unit or suite rented or leased to you where direct damage occurs has been vacant more than 60 consecutive days before the loss or damage occurs, and you have not entered into an agreement to sublease the unit or suite.

(b) Caused by your cancelling the lease, or

(c) Caused by lessors' lease cancellation at the normal expiration date.

aa. Unauthorized Business Credit Card Use

(1) We will pay for loss resulting from the "theft" or unauthorized use of Business Credit Cards issued to you or registered in your name.

(2) We do not cover use of a Business Credit Card:

(a) By a person who has been entrusted with the card; or

(b) any of your "employees".

(3) All loss:

(a) Caused by one or more persons; or

(b) Involving a single act or series of related acts;

Is considered one occurrence regardless of the number of individual unauthorized transactions.

(4) If a suit is brought against you for liability, we will pay for reasonable legal expenses incurred in that defense under this Additional Coverage.

(5) The most we will pay for any loss including legal expenses, under this

Additional Coverage is \$5,000 per occurrence.

bb. Utility Services

(1) We will pay for loss of or damage to Covered Property caused by an interruption in service to the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to property not on the described premises that provides the services shown in paragraph (3) below.

The most we will pay for loss in any one occurrence under this Additional Coverage is \$10,000 at each described premises or the Limit of Insurance shown in the Additional Property Coverage Schedule.

(2) We will pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur caused by the interruption of service at the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to property not on the described premises that provides the services shown in paragraph (3) below.

We will only pay for loss you sustain after the first 24 hours following the direct physical loss of or damage to the property described above.

The most we will pay for loss in any one occurrence under this Additional Coverage is \$5,000 at each described premises or the Limit of Insurance shown in the Additional Property Coverage Schedule.

(3) Services:

(a) Water Supply Services, meaning the following types of property supplying water to the described premises:

(i) Pumping stations; and

(ii) Water mains.

(b) Communication Supply Services, meaning the following types of property supplying communication services, including but not limited to telephone, radio, microwave, television services, Internet access or access to any electronic, cellular or satellite



network to the described premises, such as:

- (I) Communication transmission lines, including optic fiber transmission lines;
 - (II) Coaxial cables; and
 - (III) Microwave radio relays except satellites.
- (c) Power Supply Services, meaning the following types of property supplying electricity, steam or gas to the described premises:
- (I) Utility-generating plants;
 - (II) Switching stations;
 - (III) Substations;
 - (IV) Transformers; and
 - (V) Transmission lines.
- (4) Services under this Additional Coverage do not include overhead transmission lines that deliver utility services to you. Overhead transmission lines include, but are not limited to:
- (a) Overhead transmission and distribution lines;
 - (b) Overhead transformers and similar equipment; and
 - (c) Supporting poles and towers.
- (5) As used in this additional coverage, the term transmission lines includes all lines which serve to transmit communication service or power, including lines which may be identified as distribution lines.
- (6) This coverage is not an additional amount of insurance.
- (7) Coverage under this Additional Coverage for loss or damage to Covered Property does not apply to loss or damage to "electronic data", including destruction or corruption of "electronic data".
- (8) The definitions of Business Income and Extra Expense contained in the Business Income and Extra Expense Additional Coverages also apply to this Utility Services Additional Coverage.

cc. Deferred Payments

- (1) We will pay for your interest in lost or damaged Business Personal Property sold by you under a conditional sale or

trust agreement or any installment or deferred payment plan after delivery to buyers. The loss or damage must be caused by a Covered Cause of Loss.

- (2) When a total loss to that property occurs, deferred payments are valued on the amount shown on your books as due from the buyer. When a partial loss to that property occurs and the buyer refuses to continue payment, forcing you to repossess, deferred payments are valued as follows:

(a) If the realized value of the repossessed property is greater than or equal to the amount shown on your books as due from the buyer, we will make no payment; but

(b) If the realized value of the repossessed property is less than the amount shown on your books as due from the buyer, we will pay the difference.

- (3) When loss occurs and the buyer continues to pay you, there will be no loss payment.

- (4) The most we will pay for loss under this Additional Coverage is \$5,000 per occurrence.

dd. Electronic Vandalism

- (1) SECTION I - PROPERTY, A. Coverage, 2. Property Not Covered, paragraph o. is deleted.

- (2) We cover direct physical loss of or damage to covered "computer equipment" at the described premises caused by "electronic vandalism".

- (3) The most we will pay in any one occurrence under this Additional Coverage is \$10,000. The most we pay for all covered losses under this Additional Coverage during each separate 12-month period of this policy is \$10,000.

(4) Special Electronic Vandalism Exclusions

We do not cover:

(a) Loss of proprietary use of any "electronic data" or "proprietary programs" that have been copied, scanned, or altered;

(b) Loss of or reduction in economic or market value of any "electronic

data" or "proprietary programs" that have been copied, scanned, or altered; and

- (c) "Theft" from your "electronic data" or "proprietary programs" of confidential information through the observation of the "electronic data" or "proprietary programs" by accessing covered "computer equipment" without any alteration or other physical loss of or damage to the records or programs. Confidential information includes, but is not limited to, customer information, processing methods, or trade secrets.

ee. Interruption of Computer Operations

This Additional Coverage is only available if Business Income is covered under this Coverage Form.

- (1) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a suspension of "operations" at the described premises caused by an interruption in computer operations due to destruction or corruption of "electronic data" occurring at or away from the described premises resulting from any Covered Cause of Loss.
- (2) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:
- (a) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss include "electronic vandalism". But there is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.
- (b) If the Businessowners Coverage Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage.

- (3) The most we will pay under this Additional Coverage - Interruption of Computer Operations for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved, is \$10,000 unless a higher Limit of Insurance is shown in the Declarations. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.

- (4) This Additional Coverage - Interruption of Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in paragraph (3) above has not been exhausted.

- (5) Coverage for Business Income does not apply when a "suspension" of "operations" is caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under paragraphs (1), (2), (3) and (4) of this Additional Coverage.

- (6) Coverage for Extra Expense does not apply when action is taken to avoid or minimize a "suspension" of "operations" caused by "electronic vandalism", except as provided under paragraphs (1), (2), (3) and (4) of this Additional Coverage.

- (7) This Additional Coverage - Interruption of Computer Operations does not apply when loss or damage to "electronic data" involves only "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

ff. Limited Coverage for Fungl, Wet Rot, or Dry Rot

- (1) The coverage described in paragraphs (2) and (6) below only applies when the "fungl", wet rot or dry rot is the result of any of the "specified causes of loss" other than fire or lightning that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.

This Additional Coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.

- (2) We will pay for loss or damage by "fungl", wet rot or dry rot. As used in this Limited Coverage, the term loss or damage means:
- (a) Direct physical loss of or damage to Covered Property caused by "fungl", wet rot or dry rot, including the cost of removal of the "fungl", wet rot or dry rot;
 - (b) The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungl", wet rot or dry rot; and
 - (c) The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungl", wet rot or dry rot is present.
- (3) The coverage described under this Limited Coverage is limited to \$50,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences caused by or resulting from any of the "specified causes of loss" (other than fire or lightning) which take place in a 12 month period (starting with the beginning of the present policy period). With respect to a particular occurrence of loss which results in "fungl", wet rot or dry rot, we will not pay more than the total of \$50,000 even if the "fungl", wet rot or dry rot continues to be present or active, or recurs, in a later policy period.

- (4) The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungl", wet rot or dry rot, and other loss or damage, we will not pay more for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by "fungl", wet rot or dry rot, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungl", wet rot or dry rot causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

- (5) The terms of this Limited Coverage do not increase or reduce the coverage provided in **SECTION I - PROPERTY, A. Coverage, 5 Additional Coverages, d. Collapse; and/or e. Water Damage, Other Liquids, Powder or Molten Material Damage.**
- (6) The following applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the "suspension" of "operations" satisfies all the terms and conditions of the applicable **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, f. Business Income and/or g. Extra Expense:**
- (a) If the loss which resulted in "fungl", wet rot or dry rot does not in itself necessitate a "suspension" of "operations", but such "suspension" is necessary due to loss or damage to property caused by "fungl", wet rot or dry rot, then our payment under **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, f. Business Income and/or g. Extra Expense** is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
 - (b) If a covered suspension of "operations" was caused by loss or damage other than "fungl", wet

rot or dry rot, but remediation of "fungi", wet rot, dry rot prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), but such coverage is limited to 30 days. The days need not be consecutive.

gg. Theft of Telephonic Services

- (1) We will pay amounts you are obligated to pay that result from the "theft" of your "telephonic services" when someone who is not an "employee" gains unauthorized access to your "telephonic services" used in your business operations.
- (2) The most we will pay under this Additional Coverage for acts of "theft" of "telephonic services", regardless of the number of "thefts" of "telephonic services" that you sustain in one policy year is \$25,000.

hh. Computer and Funds Transfer Fraud

- (1) We will pay for:
 - (a) Loss resulting directly from a fraudulent:
 - (i) Entry of "electronic data" or "computer program" into; or
 - (ii) Change of "electronic data" or "computer program" within; any "computer equipment" owned, leased or operated by you, provided the fraudulent entry or fraudulent change causes, with regard to (1)(a)(i) and (1)(a)(ii) in the above paragraph:
 - (iii) "Money", "securities" or "other property" to be transferred, paid or delivered; or
 - (iv) Your account at a "financial institution" to be debited or deleted.
 - (b) Loss resulting directly from a "fraudulent instruction" directing a "financial institution" to debit your "transfer account" and to transfer, pay or deliver "money" or "securities" from that account.
- (2) As used in (1)(a) above, fraudulent entry or fraudulent change of "electronic data" or "computer program" shall include such entry or

change made by an "employee" acting, in good faith, upon a "fraudulent instruction" received from a computer software contractor who has a written agreement with you to design, implement or service "computer programs" for "computer equipment" covered under this Insuring Agreement.

- (3) The most we will pay per occurrence under this Additional Coverage is \$5,000 unless a higher Limit of Insurance is shown in the Schedule of Amended Limits of Insurance.
- (4) Under this Additional Coverage all loss:
 - (a) Caused by one or more persons; or
 - (b) Involving a single act or series of acts:
 is considered one occurrence.

ii. Tenant Building Insurance - When Your Lease Requires You to Provide Insurance

- (1) This Additional Coverage is available only when the Named Insured is a tenant and a Limit of Insurance is shown in the Declarations Page for Business Personal Property.
- (2) We will pay for direct physical loss of or damage to a building on the described premises owned by your landlord and in your care, custody or control for which you have a written contractual responsibility to insure. The loss or damage must be the result of or caused by a Covered Cause of Loss.
- (3) Regardless of the number of described buildings affected, the most we will pay per insured location under this Additional Coverage is \$25,000 in any one occurrence.

jj. Tenant Business Personal Property Insurance - When Your Lease Requires You to Provide Insurance

- (1) This Additional Coverage is available only when the Named Insured is a tenant and a Limit of Insurance is shown in the Declarations Page for Business Personal Property.
- (2) Subject to **SECTION I - PROPERTY, E. Property Loss Conditions, 5. Loss Payment**, paragraph d., subparagraph (3)(b), we will pay for

direct physical loss of or damage to your landlord's personal property located inside of a building on the described premises and in your care, custody or control for which you have a written contractual responsibility to insure. The loss or damage must be the result of or caused by a Covered Cause of Loss.

- (3) Regardless of the number of buildings where the landlord's personal property is located, the most we will pay per Insured location under this Additional Coverage in any one occurrence is \$25,000.

6. Coverage Extensions

Except as otherwise provided, the following extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 1,000 feet of the described premises:

a. Newly Acquired or Constructed Property

(1) Buildings

If your policy covers Buildings, you may extend the insurance provided under Building to apply to direct physical loss or damage when such loss or damage is caused by a Covered Cause of Loss to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at premises other than the one described, intended for:
 - (i) Similar use as the building described in the Declarations; or
 - (ii) Used as a warehouse.
- (c) The most we will pay for loss or damage under this Extension for Newly Acquired or Constructed Buildings is \$1,000,000 at each building.

(2) Business Personal Property

- (a) If your policy covers Business Personal Property, you may extend the insurance provided under Business Personal Property to apply to direct physical loss or damage when such loss or damage is caused by a Covered Cause of Loss to:

- (i) Business Personal Property, including such property that you newly acquire, at any location you acquire; or
- (ii) Business Personal Property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations.
- (iii) Business Personal Property that you newly acquire, located at the described premises.

(b) This Extension does not apply to:

- (i) Personal property of others that is temporarily in your possession in the course of installing or performing work on such property; or
- (ii) Personal property of others that is temporarily in your possession in the course of your manufacturing or wholesaling activities.

- (c) This insurance may not be used to increase your Business Personal Property Limit. It does not apply to personal property you acquire as part of your usual customary business dealings whether or not such acquisition was related to anticipated seasonal demands. Under the terms of this Coverage Form, such property is not considered newly acquired, but falls within the provisions for Business Personal Property.

- (d) The most we will pay for loss or damage under this Extension is \$500,000 at each premises.

(3) Business Income and Extra Expense

You may extend the insurance that applies to Business Income and Extra Expense to apply to property at any location you acquire. The most we will pay for loss or damage under this Extension is \$250,000 at each premise.

(4) Period of Coverage

With respect to insurance provided under this Coverage Extension for Newly Acquired or Constructed

Property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 180 days after you acquire the property or begin construction of that part of the building that would qualify as Covered Property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as Covered Property.

b. Personal Property Off Premises

- (1) If your policy covers Business Personal Property, you may extend the insurance provided in **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to apply to direct physical loss or damage when such loss or damage is caused by a Covered Cause of Loss while:

- (a) At a location you do not own, lease or operate; or
- (b) At any fair, trade show or exhibition.

- (2) The most we will pay for loss or damage under this Extension is \$50,000 or the amount shown in the Additional Property Coverage Schedule, whichever is greater.

- (3) **Special Personal Property Off Premises Exclusions**

This extension does not apply to property:

- (a) In or on a vehicle; or
- (b) In the care, custody or control of your sales representative, unless the property is in such care, custody or control at a fair, trade show or exhibition.

c. Outdoor Property

- (1) You may extend insurance provided by this Coverage Form to apply to direct physical loss or damage to your radio and television antennas (including satellite dishes), trees, shrubs, plants and lawns (other than trees, shrubs or plants which are "stock" or are a part of a vegetated roof) including debris removal

expense, caused by or resulting from any of the following causes of loss:

- (a) Fire;
- (b) Lightning;
- (c) Explosion;
- (d) Riot or civil commotion;
- (e) Aircraft;
- (f) Windstorm; or
- (g) Ice, snow, sleet and hail.

- (2) Coverage under this Extension does not apply to property held for sale by you.

- (3) Regardless of the number of described premises involved, the most we will pay for loss or damage under this Extension, including debris removal expense, is \$10,000, but not more than \$1,000 for any one tree, shrub or plant.

d. Personal Effects

- (1) If your policy covers Business Personal Property, you may extend the insurance provided in **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to apply to direct physical loss or damage to personal effects owned by you, your officers, your partners or "members", your "managers" or your "employees" when such loss or damage is caused by a Covered Cause of Loss.

- (2) This extension does not apply to:

- (a) Tools or equipment used in your business; and
- (b) "Employees" tools and small equipment;

- (3) The most we will pay for loss or damage under this Extension is \$10,000 at each described premises.

e. Valuable Papers and Records (Other Than Electronic Data)

- (1) If your policy covers Business Personal Property, you may extend the insurance provided under **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control caused by or resulting from a Covered Cause

of Loss. This Coverage Extension includes the cost to research, replace or restore the lost information on "valuable papers and records" for which duplicates do not exist.

- (2) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the described premises is \$25,000, unless a higher Limit of Insurance for "valuable papers and records" is shown in the Additional Property Coverage Schedule.
- (3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence not at the described premises is \$25,000, unless a higher Limit of Insurance for "valuable papers and records" is shown in the Additional Property Coverage Schedule.

- (4) This Coverage Extension does not apply to:

- (a) Property held as samples or for delivery after sale; or
- (b) Property in storage away from the premises shown in the Declarations;

- (5) **SECTION I - PROPERTY, B. Exclusions** does not apply to this Coverage Extension except for:

- (a) Paragraph 1.c. Governmental Action;
- (b) Paragraph 1.d. Nuclear Hazard;
- (c) Paragraph 1.f. War and Military Action;
- (d) Paragraph 2.d. Dishonesty;
- (e) Paragraph 2.e. False Pretense;
- (f) Paragraph 2.k. Errors or Omissions; and
- (g) Paragraph 3.a. Weather Conditions, 3.b. Acts or Decisions and 3.c. Negligent Work.

f. Accounts Receivable

- (1) If your policy covers Business Personal Property, you may extend the insurance provided in **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to accounts receivable when such loss or damage

is caused by or results from a Covered Cause of Loss. We will pay:

- (a) All amounts due from your customers that you are unable to collect;
- (b) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
- (c) Collection expenses in excess of your normal collection expenses that are made necessary by loss or damage; and
- (d) Other reasonable expenses that you incur to re-establish your records of accounts receivable;

that result from direct physical loss or damage by any Covered Cause of Loss to your records of accounts receivable.

- (2) We will pay under this Coverage Extension for loss or damage in any one occurrence at the described premises. The most we will pay is \$25,000 for accounts receivable at the described premises, unless a higher Limit of Insurance for accounts receivable is shown in the Additional Property Coverage Schedule.

- (3) We will pay under this Coverage Extension for loss or damage in any one occurrence not at the described premises. The most we will pay is \$25,000 for accounts receivable not at the described premises.

- (4) **SECTION I - PROPERTY, B. Exclusions** does not apply to this Coverage Extension except for:

- (a) Paragraph 1.c. Governmental Action;
- (b) Paragraph 1.d. Nuclear Hazard;
- (c) Paragraph 1.f. War and Military Action;
- (d) Paragraph 2.d. Dishonesty;
- (e) Paragraph 2.e. False Pretense; and
- (f) Paragraph 3.a. Weather Conditions, 3.b. Acts or Decisions and 3.c. Negligent Work.

- (5) **Accounts Receivable Special Exclusion**

We will not pay for:

- (a) Loss or damage caused by or resulting from alteration, falsification, concealment or destruction of records of accounts receivable done to conceal the wrongful giving, taking or withholding of "money", "securities" or "other property".

This exclusion applies only to the extent of the wrongful giving, taking or withholding.

- (b) Loss or damage caused by or resulting from bookkeeping, accounting or billing errors or omissions.
- (c) Any loss or damage that requires any audit of records or any inventory computation to prove its factual existence.

g. Key Replacement and Lock Repair

- (1) You may extend the Insurance provided under this Coverage Form to cover the reasonable and necessary expense you incur due to a covered "theft" for:

- (a) Replacement of keys if they are stolen;
- (b) Lock repair; or
- (c) Rekeying, replacing or reprogramming undamaged locks to accept new keys or entry codes when the building security has been compromised.

- (2) The most we will pay under this Extension is \$1,000. The deductible does not apply to this Extension.

h. Appurtenant Structures

- (1) If your policy covers Buildings, you may extend the Insurance provided under Building to apply to direct physical loss or damage to garages, carports, storage buildings and other appurtenant structures, including, but not limited to, swimming pools, spas and the associated equipment within 1,000 feet of the described premises when such loss or damage is caused by or results from a Covered Cause of Loss.

- (2) The most we will pay for loss or damage under this Extension is \$50,000 at each described premises regardless of the number of buildings or structures affected.

i. Personal Property In Transit

- (1) If your policy covers Business Personal Property, you may extend the Insurance provided in **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to apply to direct physical loss or damage to your property or property of others that is in your care, custody or control while "in transit" when such loss or damage is caused by or results from a Covered Cause of Loss.

- (2) You may extend the Insurance that applies to **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to apply to direct physical loss or damage, caused by a Coverage Cause of Loss, to outgoing shipments that have been rejected, while in due course of transit back to you or while awaiting return shipment to you.

- (3) This Extension applies to the property while in:

- (a) A vehicle owned, leased or operated by you; or
- (b) The custody of a common carrier or contract carrier.

- (4) The following in **SECTION I - PROPERTY, B. Exclusions, paragraph 1.** do not apply to this Extension:

- (a) **b. Earth Movement;** and
- (b) **g. Water.**

- (5) The most we will pay for loss or damage under this Coverage Extension is \$10,000 unless a higher Limit of Insurance is shown in the Schedule of Amended Limits of Insurance.

- (6) **Special Personal Property In Transit Exclusions**

This Extension does not apply to:

- (a) Shipments that belong to others that you are transporting for a fee;
- (b) Property while waterborne;
- (c) Salesperson's Samples; or
- (d) Loss to "perishable goods" resulting from a breakdown of refrigeration equipment on any vehicle owned, leased or operated by you or while in the custody of a common or contract carrier.

j. Inventory and Loss Appraisal

(1) We will pay for all reasonable expenses you incur at our written request to assist us in:

- (a) The investigation of a claim;
- (b) The determination of the amount of loss, such as taking inventory;
- (c) The cost of preparing specific loss documents and other supporting exhibits; or
- (d) Expenses you incur include costs charged to you by others, including property managers, acting on your behalf to assist us with items listed in paragraph (1) above.

(2) Regardless of the number of premises involved, the most we will pay under this Extension is \$10,000.

(3) The deductible does not apply to these expenses.

(4) Special Inventory and Loss Appraisal Exclusion

We will not pay for expenses:

- (a) Incurred to perform your duties in the event of a loss under **SECTION I - PROPERTY, E. Property Loss Conditions**;
- (b) To prove that loss or damage is covered;
- (c) Billed by and payable to independent or public adjusters; attorneys; claims advocates; or any of their affiliated or associated entities;
- (d) To prepare claims not covered by this Coverage Form; or
- (e) Incurred under any appraisal provisions within the Coverage Form.

k. Business Personal Property Temporarily In Portable Storage Units

- (1) If your policy covers Business Personal Property, you may extend the insurance provided in **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to apply to direct physical loss or damage to such property while temporarily stored in a portable storage unit (including a detached trailer) located within 1,000 feet of the buildings or structures

described in the Declarations or within 1,000 feet of the described premises, whichever distance is greater when such loss or damage is caused by or results from a Covered Cause of Loss.

(2) We will not pay for loss of or damage to Business Personal Property temporarily in portable storage units, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:

- (a) The portable storage unit first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
- (b) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.

(3) Coverage under this Extension:

- (a) Will end 90 days after the Business Personal Property has been placed in the storage unit;
- (b) Does not apply if the storage unit itself has been in use at the described premises for more than 90 consecutive days, even if the Business Personal Property has been stored there for 90 or fewer days as of the time of loss or damage.

(4) Under this Extension, the most we will pay for the total of all loss or damage to Business Personal Property is \$25,000 unless a higher limit is shown in the Additional Property Coverage Schedule for this Extension regardless of the number of storage units.

(5) This Extension does not apply to loss or damage otherwise covered under this Coverage Form or any endorsement to this Coverage Form, and does not apply to loss or damage to the storage unit itself.

l. Paved Surfaces

- (1) If your policy covers Buildings, you may extend the insurance provided under **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, a. Building** to apply to direct physical loss or damage to your paved surfaces, including but not limited to bridges, roadways, walks, patios, and parking lots when such loss or

damage is caused by or results from a Covered Cause of Loss.

- (2) Regardless of the number of described premises involved, the most we will pay for loss or damage in any one occurrence is \$25,000.

- (3) Payment for loss or damage to this property is included in the applicable Limit of Insurance.

(4) Special Paved Surfaces Exclusion

We will not pay for loss or damage caused by tree roots, freezing or thawing.

m. Underground Pipes

- (1) If your policy covers Buildings, you may extend the insurance provided in **SECTION 1 - PROPERTY, A. Coverage, 1. Covered Property, a. Building** to apply to direct physical loss or damage to underground pipes, flues and drains when such loss or damage is caused by or results from a Covered Cause of Loss.

- (2) The most we will pay for loss under this Coverage Extension is the applicable Limit of Insurance.

- (3) Payment under this Additional Coverage is included within the Limit of Insurance.

- (4) Special Underground Pipes Exclusion**
We will not pay for loss or damage caused by tree roots.

B. Exclusions

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

a. Ordinance or Law

- (1) The enforcement of or compliance with any ordinance or law:

- (a) Regulating the construction, use or repair of any property; or
(b) Requiring the tearing down of any property, including the cost of removing its debris.

- (2) This exclusion, Ordinance or Law, applies whether the loss results from:

- (a) An ordinance or law that is enforced even if the property has not been damaged; or

- (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property or removal of its debris, following a physical loss to that property.

This exclusion does not apply to the Ordinance or Law Additional Coverage.

b. Earth Movement

- (1) Earthquake, including tremors and aftershocks and any earth sinking, rising or shifting related to such event;
(2) Landslide, including any earth sinking, rising or shifting related to such event;
(3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;

- (4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in paragraphs (1), (2), (3) and (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

- (5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or volcanic action, we will pay for the loss or damage caused by that fire, building glass breakage or volcanic action.

Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
(b) Ash, dust or particulate matter; or
(c) Lava flow.

With respect to coverage for volcanic action as set forth in paragraph (5), subparagraphs (a), (b) and (c) above, all volcanic eruptions that occur within

any 168-hour period will constitute a single occurrence.

Volcanic action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss of or damage to Covered Property.

This exclusion applies regardless of whether or not any of the above. In **SECTION I - PROPERTY, B. Exclusions**, paragraph 1., b. Earth Movement, subparagraphs (1), (2), (3), (4) and (5), are caused by an act of nature or is otherwise caused.

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Coverage Form.

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

e. Utility Services

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

- (1) Originates away from the described premises; or
- (2) Originates at the described premises, but only if such failure involves equipment used to supply the utility services to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.

Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause

of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

This exclusion does not apply to loss or damage to "computer equipment" and "electronic data" or to **SECTION I - PROPERTY, 5. Additional Coverages, bb. Utility Services**.

f. War and 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.

g. Water

- (1) "Flood", surface water, waves (including tidal wave or tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump; or related equipment;
- (4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;
 - (b) Basements, whether paved or not; or
 - (c) Doors, windows or other openings.
- (5) Waterborne material carried or otherwise moved by any of the water referred to in paragraphs (1), (3) or (4) above, or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of paragraphs (1), (2), (3), (4) and (5) above, are caused by an act of nature or is otherwise caused. An example

of a situation to which this exclusion applies. Is the situation where a dam, levee, seawall or other boundary or containment system falls in whole or in part, for any reason, to contain the water.

But If Water, as described in paragraphs (1), (2), (3), (4) and (5) above, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage. If electrical "covered equipment" requires drying out because of paragraphs (1), (2), (3), (4) and (5) above, we will pay for the direct expenses of such drying out subject to the applicable Limit of Insurance and Deductible for Building or Personal Property, whichever applies.

h. Fungi, Wet Rot or Dry Rot

Presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot.

But If "fungi", wet rot or dry rot results in any of the "specified causes of loss", we will pay for the loss or damage caused by any of the "specified causes of loss".

This exclusion does not apply:

- (1) When "fungi", wet rot or dry rot results from fire or lightning; or
- (2) To the extent that coverage is provided in the **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverage, ff. Limited Coverage for Fungi, Wet Rot or Dry Rot**, with respect to loss or damage by a cause of loss other than fire or lightning.

i. Virus or Bacteria

- (1) Any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.
- (2) However, the exclusion in paragraph (1) above, does not apply to loss or damage caused by or resulting from "fungi", wet rot or dry rot. Such loss or damage is addressed in **SECTION I - PROPERTY, B. Exclusions, paragraph 1., h. Fungi, Wet Rot or Dry Rot**.
- (3) With respect to any loss or damage subject to the exclusion in paragraph (1) above, such exclusion supersedes any exclusion relating to "pollutants".

SECTION I - PROPERTY, B. Exclusions, paragraphs 1.a., 1.b., 1.c., 1.d., 1.e., 1.f., 1.g., 1.h. and 1.i. apply whether or not the loss

event results in widespread damage or affects a substantial area.

2. We will not pay for loss or damage caused by or resulting from any of the following:

a. Consequential Losses

Delay, loss of use or loss of market, however caused.

b. Smoke, Vapor and Gas

Smoke, vapor or gas from agricultural smudging or industrial operations.

c. Frozen Plumbing

Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

- (1) You do your best to maintain heat in the building or structure; or
- (2) You drain the equipment and shut off the supply if the heat is not maintained.

d. Dishonesty

Dishonest or criminal act by you, any of your partners, "members", officers, managers, employees, directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:

- (1) Acting alone or in collusion with others; or
- (2) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees; but "theft" by employees is not covered.

This exclusion does not apply to coverage that is provided under the Employee Theft including ERISA Additional Coverage.

e. False Pretense

Voluntary parting with any property by you or anyone else to whom you have sold, given or otherwise entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.

This exclusion does not apply to the Unauthorized Business Card Use Additional Coverage.

f. Exposed Property

Rain, snow, ice or sleet to personal property in the open.

g. Collapse

(1) Collapse, including any of the following conditions of property or any part of the property:

- (a) An abrupt falling down or caving in;
- (b) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
- (c) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to paragraphs (a) or (b) above.

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

(2) This Exclusion g. does not apply:

- (a) To the extent that coverage is provided under **SECTION 1 - PROPERTY, A. Coverage, 5. Additional Coverages, d. Collapse**; or
- (b) To collapse caused by one or more of the following:
 - (i) Any of the "specified causes of loss"
 - (ii) Breakage of building glass;
 - (iii) Weight of rain that collects on a roof; or
 - (iv) Weight of people or personal property

h. Pollution

Discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in any of the "specified causes of loss", we will pay for the loss or damage caused by any of the "specified causes of loss".

i. Neglect

Neglect of an Insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

j. Other Types of Loss

- (1) Wear and tear;

(2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;

(3) Smog;

(4) Settling, cracking, shrinking or expansion;

(5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals; or

(6) Mechanical breakdown, including rupture or bursting caused by centrifugal force.

This exclusion does not apply with respect to the breakdown of "computer equipment".

This exclusion does not apply to the Equipment Breakdown Additional Coverage.

(7) The following causes of loss to personal property:

- (a) Dampness or dryness of the atmosphere;
- (b) Changes in or extremes of temperature; or
- (c) Marring or scratching.

But if an excluded cause of loss that is listed in paragraphs (1), (2), (3), (4), (5), (6) and (7) above, results in any of the "specified causes of loss", "accident", "electronic circuitry impairment" or building glass breakage, we will pay for the loss or damage caused by any of the "specified causes of loss", "accident", "electronic circuitry impairment" or building glass breakage.

k. Errors or Omissions

Errors or omissions in:

- (1) Programming, processing or storing "electronic data" or in any "computer equipment" operations; or
- (2) Processing or copying "valuable papers and records".

However, we will pay for direct physical loss or damage caused by resulting fire, "accident", "electronic circuitry impairment" or explosion if these causes of loss would be covered by this Coverage Form.

l. Installation, Testing, Repair

Errors or deficiency in design, installation, testing, maintenance, modification or

repair of your "computer equipment" system including "software".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

m. Electrical Disturbance

Electrical or magnetic injury, disturbance or erasure of "electronic data", except as provided for in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, and 6. Coverage Extensions.**

However, we will pay for direct loss or damage caused by lightning.

n. Artificially Generated Electricity

Artificially generated electric current including electric arcing, that disturbs electrical devices, appliances or wires except as provided for in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, u. - Equipment Breakdown.** But, if artificially generated electric current results in fire, we will pay for the loss or damage caused by fire.

o. Computer Processing Exclusion

- (1) Errors or omissions in programming or incorrect instructions to "hardware";
- (2) Electrical or magnetic damage, disturbance of recordings or erasure of electronic recordings, except as provided under **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, u. Equipment Breakdown.** We will also pay for direct loss caused by lightning;
- (3) Mechanical breakdown or malfunction, component failure, faulty installation or blowouts; except as provided for under **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, u. Equipment Breakdown;** or
- (4) Faulty instruction or incorrect usage, including changes in arrangements or parts.

p. Loss of Warranty

Loss of warranty or similar future or potential benefit even when following a covered loss or covered damage.

- (1) Loss of this type does not meet direct physical loss or damage.
- (2) We agree that reasonable repair or reconditioning measures be pursued to ensure soundness of property after loss or damage:

(a) Where proper and adequate report or reconditioning method is debated, you and we agree to follow the usual and customary industry repair and reconditioning practices; or

(b) For situations not resolved by paragraph (a) above, either party may demand that the matter be resolved through Appraisal as provided for elsewhere in the Coverage Form.

q. Continuous or Repeated Seepage or Leakage of Water

Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.

r. Authorized Access

Loss resulting from a fraudulent:

- (1) Entry of "electronic data" or "computer program" into; or
- (2) Change of "electronic data" or "computer program" within;

any "computer equipment" owned, leased or operated by you by a person or organization with authorized access to that "computer equipment", except when covered under **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, hh. Computer and Funds Transfer Fraud,** paragraph b..

s. Fraudulent Instructions

Loss resulting from an "employee" or "financial institution" acting upon any instruction to:

- (1) Transfer, pay or deliver "money", "securities" or "other property"; or
- (2) Debit or delete your account; which instruction proves to be fraudulent, except when covered under **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, hh. Computer and Funds Transfer Fraud,** paragraphs a.(2) and b..

3. We will not pay for loss or damage caused by or resulting from paragraphs a., b. and c. below. But if an excluded cause of loss that is listed in paragraphs a., b. and c. below, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

a. Weather Conditions

But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in **SECTION I - PROPERTY, B. Exclusions, paragraph 1.** to produce the loss or damage.

b. Acts or Decisions

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

c. Negligent Work

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.

4. Additional Exclusion

The following applies only to the property specified in this Additional Exclusion:

Loss or Damage to Products

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

5. Business Income and Extra Expense Exclusions

We will not pay for:

- a. Any Extra Expense or Increase of Business Income loss caused by or resulting from:
 - (1) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons;

- (2) "Suspension", lapse or cancellation of any license, lease or contract. But if the "suspension", lapse or cancellation is directly caused by the "suspension" of "operations", we will cover such loss that affects your Business Income during the "period of restoration" in accordance with the terms of **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, f. Business Income, (2) Extended Business Income.**

- (3) Damage or destruction of "finished stock"; the time required to reproduce "finished stock"; or

- (4) Any other consequential loss.

Paragraph 5.a.(3) does not apply to Extra Expense.

C. Limits of Insurance

1. The most we will pay for loss or damage in any one occurrence is the applicable Limits of Insurance of **SECTION I - PROPERTY** shown in the Declarations.

2. The amounts of insurance applicable to the Coverage Extensions and the following Additional Coverages apply in accordance with the terms of such coverages and are in addition to **SECTION I - PROPERTY, C. Limits of Insurance:**

- a. Fire Department Service Charge;
- b. Pollutant Clean-Up and Removal;
- c. Civil Authority;
- d. Money Orders and Counterfeit Money;
- e. Forgery or Alteration;
- f. Ordinance or Law;
- g. Business Income from Dependent Properties;
- h. Glass Expenses;
- i. Fire Protection Equipment Recharge
- j. Employee Theft;
- k. Rewards - Arson and Theft;
- l. Computer Equipment;
- m. Tenant Signs (Tenants Only);
- n. Commercial Tools and Small Equipment;
- o. Installation;
- p. Fine Arts;
- q. Sales Representative Samples;
- r. Leasehold Interest (Tenants Only);
- s. Unauthorized Business Credit Card Use;
- t. Deferred Payments;

- u. Money and Securities;
- v. Electronic Vandalism;
- w. Interruption of Computer Operations;
- x. Theft of Telephonic Services;
- y. Computer and Funds Transfer Fraud;
- z. Tenant Building Insurance - When Your Lease Requires You to Provide Insurance; or
- aa. Tenant Business Personal Property Insurance - When Your Lease Requires You to Provide Insurance.

3. Building Limit - Increase

If Covered Property is written on a Replacement Cost basis:

- a. The Limit of Insurance for Buildings will be revised by changes that occurred in the cost of construction during the preceding policy year.
- b. The amount of Increase will be determined by reports of a recognized valuation method.
- c. We will inform you of such adjusted values. Upon their acceptance, you agree to pay any additional premium for the adjusted limit. Payment of your renewal premium, which includes the revised Limit of Insurance, shall constitute acceptance.
- d. We will pay the replacement cost value of the damaged portion of the building at the time of loss, but not more than 125% of the Limit of Insurance for Building if:
 - (1) The amount of any loss covered by this Coverage Form exceeds the Limit of Insurance for Building stated in the Declarations for the damaged Building; and
 - (2) The actual repair or replacement is completed within one year of the date of loss.
- e. The Building Limit - Increase clause will not apply if:
 - (1) You do not accept the adjusted value; or
 - (2) You do not inform us of changes to covered Building:
 - (a) Within sixty (60) days of the date any additions, improvements or enlargements to the building are begun, and
 - (b) When the replacement value of the changes are more than 5% of

the Limit of Insurance for the building.

4. Business Personal Property Limit - Seasonal Increase

- a. The Limit of Insurance for Business Personal Property will increase by 25% to provide for seasonal variations.
- b. This increase will apply only if the Limit of Insurance shown for Business Personal Property in the Declarations is at least 100% of your average monthly values during the lesser of:
 - (1) The 12 months immediately preceding the date the loss or damage occurs; or
 - (2) The period of time you have been in business as of the date the loss or damage occurs.

D. Deductibles

- 1. We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Declarations. We will then pay the amount of loss or damage in excess of the Deductible up to the applicable limit in **SECTION I - PROPERTY, C. Limit of Insurance.**
- 2. No Deductible applies to the following Additional Property Coverages and Extensions of Coverage:
 - a. Fire Department Service Charge;
 - b. Fire Protection Equipment Recharge;
 - c. Business Income;
 - d. Extra Expense;
 - e. Civil Authority;
 - f. Key Replacement and Lock Repair;
 - g. Deferred Payment;
 - h. Debris Removal;
 - i. Rewards - Arson, Theft and Vandalism;
 - j. ERISA Compliance;
 - k. Preservation of Property;
 - l. Pollutant Clean-Up and Removal;
 - m. Ordinance or Law;
 - n. Leasehold Interest (Tenants Only);
 - o. Unauthorized Business Credit Card Use;
 - p. Business Income from Dependent Properties; and
 - q. Inventory and Loss Appraisal.
- 3. A \$250 Deductible applies to the following Coverages:
 - a. Glass - Interior and Exterior; and

b. Glass Expenses.

4. A \$500 Deductible applies to all of the Additional Property Coverages and Extensions of Coverage scheduled on the Declarations, except Equipment Breakdown, unless otherwise indicated in paragraphs 2, 3, or 5. of this section.
5. A \$1,000 Deductible applies to the following Additional Property Coverages and Extensions of Coverage:
 - a. Employee Theft (except ERISA Compliance);
 - b. Sales Representative Samples;
 - c. Installation;
 - d. Personal Property Off Premises;
 - e. Personal Property In Transit.
6. The Deductible shown in the Declarations for the Equipment Breakdown Additional Coverage applies to the Additional Coverage for Equipment Breakdown.
7. Each Deductible shall be applied separately, but only to the coverage specified. The total Deductible for all losses in one occurrence will be the highest Deductible amount that applies to that occurrence.
8. The Business Income Waiting Period shown on the Declarations Page for the Business Income and Civil Authority Additional Coverages is applicable in addition to a Deductible.

E. Property Loss Conditions

1. Abandonment

There can be no abandonment of any property to us.

2. Appraisal

If you and we disagree on the amount of a covered loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

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

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

3. Duties in the Event of Loss or Damage

- a. You must see that the following are done in the event of loss or damage to Covered Property:

- (1) Notify the police if a law may have been broken.
- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase **SECTION I - PROPERTY, C. Limits of Insurance**. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
- (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
- (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.
- (9) Resume all or part of your "operations" as quickly as possible.

- b. We may examine any Insured under oath, while not in the presence of any other Insured and at such times as may be reasonably required, about any matter

relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

4. Legal Action Against Us

No one may bring a legal action against us under this insurance unless:

- a. There has been full compliance with all of the terms of this insurance; and
- b. The action is brought within 2 years after the date on which the direct physical loss or damage occurred. The 2 year limitation also applies to indirect or consequential loss covered under this Coverage Form.

5. Loss Payment

In the event of loss or damage covered by this Coverage Form:

- a. At our option, we will either:
 - (1) Pay the value of lost or damaged property;
 - (2) Pay the cost of repairing or replacing the lost or damaged property;
 - (3) Take all or any part of the property at an agreed or appraised value; or
 - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to paragraph d., subparagraph (1)(d) below.
- b. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- c. We will not pay you more than your financial interest in the Covered Property.
- d. We will determine the value of Covered Property as follows:
 - (1) At replacement cost without deduction for depreciation except as provided in paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15) and (16) below.
 - (a) You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim on a replacement cost basis if you notify us of your intent to do so within 180 days after the loss or damage.

(b) We will not pay on a replacement cost basis for any loss or damage:

- (i) Until the loss or damaged property is actually repaired or replaced;
- (ii) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage; and
- (iii) Unless the repairs or replacement are completed within 24 months for personal property or for buildings and other real property after the loss or damage, unless extended in writing by us.

However, if the cost to repair or replace a damaged building is \$2,500 or less we will determine the value at replacement cost without deduction for depreciation.

(c) We will not pay more for loss or damage on a replacement cost basis than the least of the following amounts:

(i) The cost to replace, on the same premises, the lost or damaged property with other property:

- 1) Of comparable material and quality; and
- 2) Used for the same purpose; or

(ii) The amount that you actually spend that is necessary to repair or replace the lost or damaged property.

If a building is rebuilt at a new location, the recoverable amount is limited to the cost which would have been incurred had the building been built at the original premises.

(d) The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.

(2) If the Declarations indicate the Actual Cash Value applies to Building or Personal Property, paragraph (1) above does not apply to that property. Instead, we will determine the value of that property at the actual cash value.

- (3) The following property at actual cash value:
- (a) Used or second-hand merchandise held in storage or for sale;
 - (b) Property of others. However, if an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance;
 - (c) Household contents, except personal property in apartments or rooms furnished by you as landlord;
 - (d) Manuscripts;
 - (e) Works of art, "antiques" or rare articles, including but not limited to, etchings, pictures, statuary, marbles, bronzes, porcelains, glassware and bric-a-brac not otherwise covered in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverage, x. Fine Arts**; or
 - (f) Commercial Tools and Small Equipment and Contractors Tools and Equipment. This does not apply to your Commercial Tools and Small Equipment permanently installed or exclusively used at the described premises.
- (4) Glass at the cost of replacement with safety glazing material if required by law.
- (5) Tenant's Improvements and Betterments at:
- (a) Replacement cost if you make repairs promptly.
 - (b) A proportion of your original cost if you, as the tenant, do not make repairs promptly. We will determine the proportionate value as follows:
 - (i) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
 - (ii) Divide the amount determined in paragraph (i) above by the number of days from the installation of improvements to the expiration of the lease.
- If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
- (c) Nothing if others pay for repairs or replacement.
- (6) "Valuable papers and records" at the cost of restoration or replacement, including the cost of data entry, re-programming, computer consultation services and the "media" on which the data or programs reside. To the extent that the contents of the "valuable papers and records" are not restored, the "valuable papers and records" will be valued at the cost of replacement with blank materials of substantially identical type.
- (7) "Money" at its face value; and
- (8) "Securities" at their value at the close of business on the day the loss is "discovered".
- (9) Accounts Receivable:
- (a) If you cannot accurately establish the amount of accounts receivable outstanding as of the time of loss or damage:
 - (i) We will determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss or damage occurs; and
 - (ii) We will adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
 - (b) The following will be deducted from the total amount of accounts receivable, regardless of how that amount is established:
 - (i) The amount of the accounts for which there is no loss or damage;

- (ii) The amount of the accounts that you are able to re-establish or collect;
 - (iii) An amount to allow for probable bad debts that you are normally unable to collect; and
 - (iv) All unearned interest and service charges.
- (10) "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.
- (11) "Finished stock" you manufactured at selling price less discounts and expenses you otherwise would have had.
- (12) Personal Property in Transit (other than "stock" you have sold) at the amount of invoice, including your prepaid or advanced freight charges and other charges which may have accrued or become legally due since the shipment. If you have no invoice, actual cash value will apply.
- (13) Precious metals, such as gold, silver and platinum, at the average market cost of replacements on the date of loss, or the actual cost of the replacement, if less.
- (14) "Fine Arts"
- We will pay the lesser of:
- (a) The market value at the time of loss or damage;
 - (b) The reasonable cost of repair or restoration to the condition immediately before the covered loss or damage; or
 - (c) The cost of replacement with substantially identical property.
- e. Our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.

g. We will pay for covered loss or damage within 30 days after we receive a properly completed sworn proof of loss, provided you have complied with all of the terms of this Coverage Form, and

(1) We have reached agreement with you on the amount of loss; or

(2) An appraisal award has been made.

h. In settling covered losses involving a party wall, we will pay a proportion of the loss, to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance, the Valuation and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of **SECTION III - COMMON POLICY CONDITIONS, K. Transfer of Rights of Recovery Against Others to Us** in this policy.

6. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, you may retain the property. But then you must return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to **SECTION I - PROPERTY, C the Limits of Insurance**.

7. Vacancy

a. Description of Terms

(1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in paragraphs (a) and (b) below:

(a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such leased space is vacant when it does not contain

enough business personal property to conduct customary "operations".

(b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:

- (i) Rented to a lessee or sub-lessee and used by the lessee or sub-lessee to conduct its customary operations; and/or
- (ii) Used by the building owner to conduct customary operation.

(2) Buildings under construction or renovation are not considered vacant when customary "operations" cannot be conducted as a direct result of the construction or renovation.

b. Vacancy Provisions

If the building or leased space where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

(1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:

- (a) Vandalism;
- (b) Sprinkler leakage due to freezing, unless you have protected the system against freezing;
- (c) Building glass breakage;
- (d) Water damage;
- (e) "Theft", or
- (f) Attempted "theft".

(2) With respect to Covered Causes of Loss other than those listed in paragraphs (a), (b), (c), (d), (e) and (f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

8. Pair, Sets or Parts

For pairs or sets, we will either:

- (a) Repair or replace any part to restore the value and condition of the pair or set to that immediately before the covered loss or damage; or
- (b) Pay the difference between the value of the pair or set before and after the covered loss or damage.

(c) Covered Property consisting of several parts when complete, we will only pay for the value of the lost or damaged part.

F. Property General Conditions

1. Control of Property

Any act or neglect of any person other than you beyond your direction or control will not affect this Insurance.

The breach of any condition of this Coverage Form at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

2. Mortgageholders

- a. The term mortgageholder includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Coverage Form, the mortgageholder will still have the right to receive loss payment if the mortgageholder:

- (1) Pays any premium due under this policy at our request if you have failed to do so;
- (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
- (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this Coverage Form will then apply directly to the mortgageholder.

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Form:

- (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The mortgageholder's right to recover the full amount of the

mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least:

- (1) 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
- (2) 30 days before the effective date of cancellation if we cancel for any other reason.

- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

3. No Benefit to Bailee

No person or organization, other than you, having custody of Covered Property will benefit from this Insurance.

4. Policy Period, Coverage Territory

Under **SECTION I - PROPERTY:**

- a. We cover loss or damage commencing:

- (1) During the policy period shown in the Declarations; and
- (2) Within the coverage territory or, with respect to property "in transit", while it is between points in the coverage territory.

- b. The coverage territory is:

- (1) The United States of America (including its territories and possessions);
- (2) Puerto Rico; and
- (3) Canada.

5. Protective Devices

- a. If you received a discount to the property premium of this policy because of the existence of one of the following protective devices, you are required to maintain that protective device. Existence of an applicable protective devices credit can be found on the Declarations Page.

- b. Protective devices include Automatic Sprinkler Systems including related supervisory services, Automatic Fire Alarms and Central Station Security Alarms.

- c. We will not pay for loss or damage caused by a Covered Cause of Loss which a device is intended to protect against if you:

- (1) Knew of any suspension or impairment in any protective device and failed to notify us of that fact; or
- (2) Failed to maintain any protective device over which you had control in complete working order.

If part of an Automatic Sprinkler System is shut off due to breakage, leakage, freezing conditions or opening of sprinkler heads, notification to us will not be necessary if you can restore full protection within 48 hours.

6. Increase in Hazard

We will not pay for loss or damage when there has been a material increase in hazard that is within your knowledge or control. This condition applies to any and all portions of a claim.

G. Property Definitions

1. "Accident"

- a. "Accident" means a fortuitous event that causes direct physical damage to "covered equipment". The event must be one of the following:

- (1) Mechanical breakdown, including rupture or bursting caused by centrifugal force;
- (2) Artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances or wires;
- (3) Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control;
- (4) Loss or damage to steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; or
- (5) Loss or damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment.

- b. None of the following is an "accident":

- (1) Defect, programming error, programming limitation, computer virus, malicious code, loss of data, loss of access, loss of use, loss of functionality or other condition within

or involving data or "media" of any kind; or

- (2) Misalignment, miscalibration, tripping off-line, or any condition which can be corrected by resetting, tightening, adjusting or cleaning, or by the performance of maintenance.

However, if an "accident" results, we will pay for the resulting loss, damage or expense caused by that "accident".

2. "Antique" or "antiques" means an object having value because its:

- Craftsmanship is in the style or fashion of former times; and
- Age is 100 years old or older.

3. "Cloud computing services" means professional, on-demand, self-service data storage or data processing services provided through the Internet or over telecommunications lines. This includes services known as IaaS (Infrastructure as a service), PaaS (platform as a service), SaaS (software as a service) and NaaS (network as a service). This includes business models known as public clouds, community clouds and hybrid clouds. "Cloud computing services" include private clouds if such services are owned and operated by a third party.

4. "Computer equipment" means:

- "Hardware" and related component parts. Component parts include but are not limited to modems, routers, printers, keyboards, monitors, and scanners;
- "Software"; and
- "Protection and control equipment".

"Computer equipment" does not mean "Computer equipment" used to operate production-type machinery or equipment.

5. "Computer hacking" means an unauthorized intrusion by an individual or group of individuals, whether employed by you or not, into "hardware" or "software", a Web site, or a computer network and that results in but is not limited to:

- Deletion, destruction, generation, or modification of "software";
- Alteration, contamination, corruption, degradation, or destruction of the integrity, quality or performance of "software";
- Observation, scanning, or copying of "electronic data", "programs and applications", and "proprietary programs";

- Damage, destruction, inadequacy, malfunction, degradation, or corruption of any "hardware" or "media" used with "hardware"; or

- Denial of access to or denial of services from "hardware", "software", computer network, or Web site including related "software".

6. "Computer program" means a set of related electronic instructions, which direct the operation and function of a computer or devices connected to it, which enable the computer or devices to receive, process, store or send "electronic data".

7. "Computer Virus" means the introduction into "hardware", "software", computer network, or Web site of any malicious, self-replicating electronic data processing code or other code and that is intended to result in, but is not limited to:

- Deletion, destruction, generation, or modification of "software";

- Alteration, contamination, corruption, degradation, or destruction of the integrity, quality, or performance of "software";

- Damage, destruction, inadequacy, malfunction, degradation, or corruption of any "hardware" or "media" used with "hardware"; or

- Denial of access to or denial of services from "hardware", "software", computer network, or Web site including related "software".

8. "Counterfeit money" means an imitation of "money" that is intended to deceive and to be taken as genuine.

9. "Covered equipment" means Covered Property which, during normal usage, operates under vacuum or pressure, other than the weight of its contents, or that generates, transmits or utilizes energy.

"Covered equipment" may utilize conventional design and technology or new or newly commercialized design and technology.

"Covered equipment" does not include:

- Structure, foundation, cabinet or compartment;

- Insulating or refractory material;

- Sewer piping, buried vessels or piping, or piping forming a part of a sprinkler or fire suppression system;

- Water piping other than boiler feedwater piping, boiler condensate return piping or

- water piping forming a part of a refrigerating or air conditioning system;
- e. Dragline, excavation equipment or construction equipment;
 - f. Vehicle, meaning any machine or apparatus that is used for transportation or moves under its own power or any equipment mounted on a vehicle. Vehicle includes but is not limited to: car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester. However, any property that is stationary, permanently installed at a covered location and that receives electrical power from an external power supplier will not be considered a vehicle;
 - g. Equipment manufactured by you for sale or
 - h. Satellite, spacecraft or any equipment mounted on a satellite or spacecraft.
10. "Data" means a representation of information, knowledge, facts, concepts or instructions which are being processed or have been processed in "computer equipment".
 11. "Data records" means files, documents and information in an electronic format and that are stored within "electronic data".
 12. "Denial of service attack" means the malicious direction or a high volume of worthless inquiries to website or e-mail destinations, effectively denying or limiting legitimate access regardless of whether or not damage to "computer equipment" results.
 13. "Dependent property" or "dependent properties" means the property owned by others whom you depend upon to:
 - a. Deliver materials or services to you or to others for your account. But services do not mean water supply services, wastewater removal services, communication supply services or power supply services;
 - b. Accept your products or services;
 - c. Manufacture products for delivery to your customers under contract of sale; or
 - d. Attract customers to your business.

The "dependent property" must be located in the coverage territory of this Coverage Form.
 14. "Discover" or "Discovered" means:
 - a. The time when you first become aware of facts which would cause a reasonable person to assume that a loss of a type covered by this policy has been or will be incurred, regardless of when the act or acts causing or contributing to such loss occurred, even though the exact amount or details may not be known.
 - b. "Discover" or "Discovered" also means the time when you first receive notice of an actual or potential claim in which it is alleged that you are liable to a third party under circumstances which, if true, would constitute a loss under this policy.
 15. "Electronic circuitry" means microelectronic components, including but not limited to circuit boards, integrated circuits, computer chips and disk drives.
 16. "Electronic circuitry impairment"
 - a. "Electronic circuitry impairment" means a fortuitous event involving "electronic circuitry" within "covered equipment" that causes the "covered equipment" to suddenly lose its ability to function as it had been functioning immediately before such event. This definition is subject to the conditions specified in b., c. and d. below.
 - b. We shall determine that the reasonable and appropriate remedy to restore such "covered equipment's" ability to function is the replacement of one or more "electronic circuitry" components of the "covered equipment."
 - c. The "covered equipment" must be owned or leased by you, or operated under your control.
 - d. None of the following is an "electronic circuitry impairment":
 - (1) Any condition that can be reasonably remedied by:
 - (a) Normal maintenance, including but not limited to replacing expendable parts, recharging batteries or cleaning;
 - (b) Rebooting, reloading or updating software or firmware; or
 - (c) Providing necessary power or supply.
 - (2) Any condition caused by or related to:
 - (a) Incompatibility of the "covered equipment" with any software or equipment installed, introduced or networked within the prior 30 days; or
 - (b) Insufficient size, capability or capacity of the "covered equipment."

- (3) Exposure to adverse environmental conditions, including but not limited to change in temperature or humidity, unless such conditions result in an observable loss of functionality. Loss of warranty shall not be considered an observable loss of functionality.
17. "Electronic data" means files, documents, information and "programs and applications" in an electronic format and that are stored on "media".
18. "Electronic Vandalism" means "computer hacking", "computer virus" or a "denial of service attack". "Electronic vandalism" does not include the "theft" of any property or services.
19. "Employee" or "employees" means:
- Any natural person or persons:
 - While in your service and for 30 days after termination of service; and
 - Who you compensate directly by salary, wages or commissions; and
 - Who you have the right to direct and control while performing services for you;
 - Any natural person who is furnished temporarily to you:
 - To substitute for a permanent employee, as defined in paragraph a. above, who is on leave; or
 - To meet seasonal or short-term workload conditions;
 - Any natural person or persons who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary "employee" as defined in paragraph b. above;
 - Any natural person who is a former "employee", partner, "manager", director or trustee retained as a consultant while performing services for you; or
 - Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody or property outside the described premises;
 - Any natural person who is:
 - A trustee, officer, employee, administrator or manager, except an administrator or manager who is an independent contractor, of any "employee benefit plan"; and
- (2) A director or trustee of yours while that person is engaged in handling "funds" or "other property" of any "employee benefit plan";
- "Employee" does not mean any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character not specified in paragraph 14. of this section.
20. "Financial Institution" means:
- With regard to **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverage, s. Money and Securities**:
 - A bank, savings bank, savings and loan association, trust company, credit union or similar depository institution; or
 - An insurance company.
 - SECTION I - PROPERTY, A. Coverage, 5. Additional Coverage, hh. Computer and Funds Transfer Fraud**:
 - A bank, savings bank, savings and loan association, trust company, credit union or similar depository institution;
 - An insurance company; or
 - A stock brokerage firm or investment company.
 - Other than **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, s. Money and Securities and hh. Computer and Funds Transfer Fraud**, any financial institution.
21. "Fine arts" means paintings, etchings, pictures, tapestries, rare art glass, art glass windows, valuable rugs, statuary, sculptures, "antique" jewelry, bric-a-brac, porcelains and similar property of rarity, historical value or artistic merit.
22. "Finished stock" means stock you have manufactured. "Finished stock" also includes whiskey and alcoholic products being aged.
- "Finished stock" does not include "stock" you have manufactured that is held for sale on the premises of any retail outlet.
23. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas due to:
- Surface water or waves, tides, tidal waves, tsunami, overflow of any body of water or their spray, all whether driven by wind or not (including storm surge);

- b. The unusual or rapid accumulation of runoff of surface waters from any source;
 - c. Mudslides or mudflows which are caused by "flood" water. A mudslide or mudflow involves a river of liquid and flowing mud on the surface of normally dry land areas as when earth is carried by a current of water and deposited along the path of the current.
 - d. The release of water impounded by a dam, levee, dike, seawall or "flood" control device, whether driven by wind or not (including storm surge).
- When a "flood" is a continuous or protracted event it will constitute a single "flood" occurrence.
- 24. "Forgery" means the signing of the name of another person or organization with intent to deceive; it does not mean a signature which consists in whole or in part of one's own name signed with or without authority, in any capacity, for any purpose.
 - 25. "Fraudulent instruction" means:
 - a. An electronic, telegraphic, cable, teletype, tele facsimile or telephone instruction which purports to have been transmitted by you, but which was in fact fraudulently transmitted by someone else without your knowledge or consent;
 - b. A written instruction (other than those described in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, k. Forgery or Alteration**) issued by you, which was forged or altered by someone other than you without your knowledge or consent or which purports to have been issued by you, but was in fact fraudulently issued without your knowledge or consent.
 - 26. "Funds" means "money" and "securities".
 - 27. "Fungi" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by "fungi".
 - 28. "Hardware" means a network of electronic machine components (microprocessors) capable of accepting instructions and information, processing the information according to the instructions, and producing desired results. "Hardware" includes but is not limited to:
 - a. Mainframe and mid-range computers and servers;
 - b. Personal computers and workstations;
 - c. Portable electronic devices. Portable electronic devices include laptops, tablets, e-readers, smartphones or other lightweight, hand-held or wearable devices capable of storing, retrieving and processing data; and
 - d. Peripheral data processing equipment, including but not limited to printers, keyboards, monitors, and modems.
- "Hardware" does not mean electronic items that are not similar to the items listed in a., b., c. and d. above.
- "Hardware" does not include:
- e. Diagnostic equipment;
 - f. Electronic items that contain a computer to perform functions other than "hardware"; and
 - g. Peripheral data processing equipment valued more than the "hardware" itself.
- 29. "Hazardous substance" means any substance that is hazardous to health or has been declared to be hazardous to health by a governmental agency.
 - 30. "In transit" means in the course of shipment from or to the premises shown in the Declarations. It includes such shipments while temporarily stopped or delayed, incidental to the delivery.
 - 31. "Manager" or "managers" means a person or persons serving in a directorial capacity for a limited liability company (LLC).
 - 32. "Media" means an instrument that is used with "hardware" and on which "electronic data", "programs and applications", and "proprietary programs" can be recorded or stored. "Media" includes, but is not limited to, films, tapes, cards, discs, drums, cartridges, cells, DVDs, CD-ROMs and other portable data devices.
 - 33. "Member" or "Members" means an owner of a limited liability company represented by its membership interest, who also may serve as a "manager".
 - 34. "Messenger" means you, or a relative of yours, or any of your partners or "members", or any "employee" while having care and custody of property away from the described premises.
 - 35. "Money" means:
 - a. Currency, coins and bank notes in current use and having a face value;
 - b. Traveler's checks and money orders held for sale to the public; and
 - c. In addition, includes:

- (1) For the purposes of **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, p. Employee Theft including ERISA Compliance and k. Forgery or Alteration**, deposits in your account at any "financial institution"; and
- (2) For the purposes of **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverage hh. Computer and Funds Transfer Fraud**, deposits in your account at a "financial institution" as defined in **SECTION I - PROPERTY, G. Property Definitions**, paragraph 19.b..
36. "One equipment breakdown" means: If an initial "accident" or "electronic circuitry impairment" causes other "accidents" or "electronic circuitry impairments," all will be considered "one equipment breakdown." All "accidents" or "electronic circuitry impairments" that are the result of the same "accident" or "electronic circuitry impairment" will be considered "one equipment breakdown."
37. "Operations" means your business activities occurring at the described premises.
38. "Other property" means tangible property other than "money" and "securities" that has intrinsic value. "Other property" does not include computer programs, "electronic data" or any property specifically excluded under this Coverage Form.
39. "Payment processing device" means any electronic device used to process credit, debit or charge card transactions, including but not limited to, digital pen pad devices, PIN pad devices, Automatic Teller Machines (ATMs), credit card processing machines.
40. "Payroll expense":
 - a. Means payroll expenses for all your "employees" except:
 - (1) Officers;
 - (2) Executive;
 - (3) Department Managers;
 - (4) "Employees" under contract; and
 - (5) Additional Exemptions shown in the Declarations as:
 - (a) Job classifications; or
 - (b) "Employees".
 - b. Includes:
 - (1) Payroll;
 - (2) Employee Benefits, if directly related to payroll;

- (3) FICA payments you pay;
- (4) Union dues you pay; and
- (5) Workers' Compensation premiums.

41. "Period of Restoration"

a. Means the period of time that:

(1) Begins:

(a) After the number of hours shown as the Business Income Waiting Period in the Declarations after the time of direct physical loss or damage for Business Income Coverage; or

(b) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;

caused by or resulting from any Covered Cause of Loss at the described premises; and

(2) Ends on the earlier of:

(a) The date when the property at the described premises should be repaired, rebuilt or replaced (to a condition permitting occupancy) with reasonable speed and similar quality; or

(b) The date when business is resumed at a new permanent location; or

(c) Exhaustion of the number of consecutive months as shown on the Policy Declarations Page.

b. Does not include any increased period required due to the enforcement of any ordinance or law that:

(1) Regulates the construction, use or repair, or requires the tearing down of any property; or

(2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of "pollutants".

The expiration date of this policy will not cut short the "period of restoration".

42. "Perishable goods" means personal property:

a. Maintained under controlled temperature or humidity conditions for preservation; and

b. Susceptible to loss or damage if the controlled temperature or humidity conditions change.

43. "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.
44. "Programs and applications" means operating programs and applications that you purchase and that are:
- Stored on "media"; or
 - Pre-installed and stored in "hardware".
- Applications include, but are not limited to, programs for word processing, spreadsheet calculations, and graphic design.
45. "Proprietary programs" means proprietary operating programs and applications that you developed or that you had developed specifically for use in your "operations" and that are:
- Stored on "media"; or
 - Installed and stored in "hardware".
46. "Protection and control equipment" means:
- Air conditioning or other cooling equipment used exclusively in the operation of the "hardware";
 - Fire protection equipment used for the protection of the "hardware", including automatic and manual fire suppression equipment and smoke and heat detectors; and
 - Uninterruptible power supply system, line conditioner, and voltage regulator.
47. "Rental Value" means Business Income that consists of:
- New Income (Net Profit or Loss before income taxes) that would have been earned or incurred as rental income from tenant occupancy of the premises described in the Declarations as furnished and equipped by you, including fair rental value of any portion of the described premises which is occupied by you; and
 - Continuing normal operating expenses incurred in connection with that premises, including:
 - Payroll; and
 - The amount of charges which are the legal obligation of the tenant(s) but would otherwise be your obligations.
48. "Securities" means negotiable and non-negotiable instruments or contracts representing either "money" or "other property" and includes:
- Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
 - Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you; but does not include "money".
49. "Software" means:
- "Media";
 - "Electronic Data";
 - "Programs and applications"; and
 - "Proprietary programs".
50. "Specified Causes of Loss" means the following:
- Fire; lightning; explosion, windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.
- Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
 - The cost of filling sinkholes; or
 - Sinking or collapse of land into man-made underground cavities.
 - Falling objects does not include loss of or damage to:
 - Personal property in the open; or
 - The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.
 - Water damage means
 - Accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of any part of a system or appliance (other than a sump system including its related equipment and parts) containing water or steam; and
 - Accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of a municipal potable water supply system or municipal



sanitary sewer system, if the breakage or cracking is caused by wear or tear.

But water damage does not include loss or damage otherwise excluded in **SECTION I - PROPERTY, B. Exclusions**, paragraph 1. g. Water. Therefore, for example, there is no coverage in the situation in which discharge or leakage of water results from breaking apart of cracking of a pipe which was caused by or related to weather-induced "flood" water, even if wear and tear contributed to the breakage or cracking. As another example, and also in accordance with the terms of the Water Exclusion, there is no coverage for loss or damage caused by or related to weather-induced "flood" water which follows or is exacerbated by pipe breakage or cracking attributable to wear and tear.

To the extent that accidental discharge or leakage of water falls within the criteria set forth in paragraphs (1) or (2) above of this definition of "specified causes of loss", such water is not subject to the provisions of **SECTION I - PROPERTY, B. Exclusions**, paragraph 1., g. Water, which preclude coverage for surface water or water under the ground surface.

- 51. "Stock" means merchandise held in storage or for sale, raw materials and in process or finished goods, including supplies used in their packing or shipping.
- 52. "Suspension" means:
 - a. The partial slowdown or complete cessation of your business activities; or
 - b. Part or all of the described premises is rendered untenable, if coverage for Business Income applies.
- 53. "Telephonic services" means use of your:
 - a. Telephone services;
 - b. Telephone credit cards; or
 - c. Telephone access cards.
- 54. "Theft" means the unlawful taking of property to the deprivation of the insured.
- 55. "Transfer account" means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of "money" and "securities" by means of:
 - a. Electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or

- b. Written Instructions (other than those described in **SECTION I - PROPERTY, A. Coverage**, 5. Additional Coverages, k. Forgery or Alteration) establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic funds transfer system.

56. "Valuable papers and records" means:

- a. Inscribed, printed or written:

- (1) Documents;
- (2) Manuscripts; and
- (3) Records;

Including abstracts, books, deeds, drawings, films, maps or mortgages;

- b. If you are a Printer, Publisher or Graphic Artist by trade, "valuable papers and records" means negatives, positives, artwork, separations, plates, dies, molds, forms, stock manuscripts and other similar property usual to the graphic arts, printing or publishing industry, including those which exist on electronic or magnetic "media", other than prepackaged software programs.

But "valuable papers and records" does not mean "money" or "securities".

SECTION II - LIABILITY

A. Coverages

1. Business Liability

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

- (1) The amount we will pay for damages is limited as described in **SECTION II - LIABILITY, D - Liability and Medical Expenses Limits of Insurance**; and
- (2) Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of

Judgments, settlements or medical expenses.

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

b. This insurance applies:

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

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

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

c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under C. Who Is An Insured, paragraph 1. or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of "bodily injury" or "property damage" after the end of the policy period.

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

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

(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

f. Coverage Extension - Supplementary Payments

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

(a) All expenses we incur.

(b) Up to \$2500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.

(c) The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance. We do not have to furnish these bonds.

(d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

(e) All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.

(f) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the Limit of Insurance, we will not pay any

prejudgment interest based on that period of time after the offer.

- (g) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance described in **SECTION II - LIABILITY, D. Liability and Medical Expenses Limits of Insurance.**

- (2) If we defend an Insured against a "suit" and an Indemnatee of the Insured is also named as a party to the "suit", we will defend that Indemnatee if all of the following conditions are met:

- (a) The "suit" against the Indemnatee seeks damages for which the Insured has assumed the liability of the Indemnatee in a contract or agreement that is an "Insured contract";

- (b) This Insurance applies to such liability assumed by the Insured;

- (c) The obligation to defend, or the cost of the defense of, that Indemnatee, has also been assumed by the Insured in the same "Insured contract";

- (d) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the Insured and the interests of the Indemnatee;

- (e) The Indemnatee and the Insured ask us to conduct and control the defense of that Indemnatee against such "suit" and agree that we can assign the same counsel to defend the Insured and the Indemnatee; and

- (f) The Indemnatee:

- (i) Agrees in writing to:

- 1) Cooperate with us in the investigation, settlement or defense of the "suit";
- 2) Immediately send us copies of any demands, notices, summonses or

legal papers received in connection with the "suit";

- 3) Notify any other insurer whose coverage is available to the Indemnatee; and

- 4) Cooperate with us with respect to coordinating other applicable insurance available to the Indemnatee; and

- (ii) Provides us with written authorization to:

- 1) Obtain records and other information related to the "suit"; and

- 2) Conduct and control the defense of the Indemnatee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that Indemnatee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the Indemnatee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of **SECTION II - LIABILITY, B. Exclusions, 1. Applicable to Business Liability Coverage, b. Contractual Liability, paragraph (2)**, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

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

- (g) We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or

- (h) The conditions set forth above, or the terms of the agreement described in Paragraph (2)(f) above are no longer met.

2. Medical Expenses

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

- (1) On premises you own or rent;

(2) On ways next to premises you own or rent; or

(3) Because of your operations; provided that:

(a) The accident takes place in the "coverage territory" and during the policy period;

(b) The expenses are incurred and reported to us within one year of the date of the accident; and

(c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable Limits of Insurance as described in **D. Liability and Medical Expenses Limits of Insurance.**

c. We will pay reasonable expenses for:

(1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

B. Exclusions

1. Applicable To Business Liability Coverage

This Insurance does not apply to:

a. Expected or Intended Injury

"Bodily Injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

(1) That the insured would have in the absence of the contract or agreement; or

(2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the

execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

(b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this Insurance applies are alleged.

c. Liquor Liability

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

(1) Causing or contributing to the intoxication of any person;

(2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

(3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

(4) The supervision, hiring, employment, training or monitoring of others by that insured; or

(5) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

If the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in paragraphs (1), (2) or (3) above.

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

For the purpose of this exclusion, permitting a person to bring alcoholic beverages on your premises for consumption on your premises, whether or

not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation and Similar Laws

Any obligation of the Insured under a workers' compensation, disability benefits or unemployment compensation law or any similar local, state, federal or foreign law or regulation.

e. Employer's Liability

"Bodily Injury" to:

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

This exclusion applies:

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

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

f. Pollution

- (1) "Bodily Injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a) At or from any premises, site or location, which is or was at any time owned or occupied by, or rented or loaned to, any Insured. However, this subparagraph does not apply to:
 - (i) "Bodily Injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the

building's occupants or their guests;

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

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

- (b) At or from any premises, site or location which is or was at any time used by or for any Insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any Insured; or
- (ii) Any person or organization for whom you may be legally responsible; or

- (d) At or from any premises, site or location on which any Insured or any contractors or subcontractors working directly or indirectly on any Insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such Insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily Injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions

necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

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

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

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

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

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

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

g. Aircraft, Auto or Watercraft

(1) Unmanned Aircraft

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading and unloading".

This paragraph g. (1) applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" or the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

This paragraph g. (1) does not apply to:

(a) The use of another's advertising idea in your "advertisement"; or

(b) Infringing upon another's copyright, trade dress or slogan in your "advertisement".

(2) Aircraft (Other Than Unmanned Aircraft), Auto or Watercraft

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



This paragraph g. (2) applies even if the claim is against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" or the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This paragraph g. (2) does not apply to:

- (a) A watercraft while ashore on premises you own or rent;
- (b) A watercraft you do not own that is:
 - (i) Less than 51 feet long; and
 - (ii) Not being used to carry persons or property for a charge;
- (c) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (d) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft (other than "unmanned-aircraft") or watercraft; or
- (e) "Bodily injury" or "property damage" arising out of:
 - (i) The operation of machinery or equipment that is 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 or motor vehicle registration law where it is licensed or principally garaged; or
 - (ii) The operation of any of the following machinery or equipment:
 - 1) Cherry pickers and similar devices mounted on automobile or truck

chassis and used to raise or lower workers; and

- 2) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-servicing equipment; or

(f) An aircraft (other than "unmanned aircraft") that is:

- (i) Chartered by, loaned to, or hired by you with a paid crew; and

(ii) Not owned by any insured.

h. Mobile Equipment

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

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

i. War

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

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

j. Professional Services

"Bodily injury", "property damage", "personal and advertising injury" caused by the rendering of or failure to render any professional service, advice or instruction:

- (1) By you; or
- (2) On your behalf; or
- (3) From whom any of you assumed liability by reason of a contract or agreement,

regardless of whether any such service, advice or instruction is ordinary to any insured's profession.

Professional services include but are not limited to:

- (4) Legal, accounting or advertising services, notary, title abstract, tax preparation, real estate, stockbroker, publishing, architects or insurance services;
- (5) Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (6) Supervisory, inspection or engineering services;
- (7) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (8) Any health or therapeutic service treatment, advice or instruction;
- (9) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming, including use or exposure to any sun lamp, tanning booth or other similar appliance;
- (10) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- (11) Body piercing services;
- (12) Services in the practice of pharmacy;
- (13) Management, Human Resource, Testing, Media or Public Relations consulting services.

This exclusion applies even if a claim alleges negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or failure to render any professional service.

k. Damage to Property

"Property damage" to:

- (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other

person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractor or subcontractor working directly or indirectly on your behalf is performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

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

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

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

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

i. Damage to Your Product

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

m. Damage to Your Work

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

This exclusion does not apply if the damaged work or the work out of which

the damage arises was performed on your behalf by a subcontractor.

n. Damage to Impaired Property or Property Not Physically Injured

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

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

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

o. Recall of Products, Work or Impaired Property

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

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

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

p. Aircraft Products, Grounding and Testing

- (1) "Aircraft products" or reliance upon any representation or warranty made with such product;
- (2) The "grounding" of any aircraft; or
- (3) The "testing" of any aircraft.

For purposes of this Exclusion, the following definitions apply:

(4) "Aircraft Products" means:

- (a) Aircraft, including but not limited to missiles, spacecraft, or any other aircraft goods or products you manufacture, sell, handle or distribute;
- (b) Aircraft and any ground support or control equipment used in connection therewith;

(c) Any product provided by the insured and installed or used in connection with any aircraft;

(d) Any tooling used in respect to any aircraft;

(e) Training and navigational aids, instructions, manuals, blueprints, engineering or other data in connection with any aircraft;

(f) Any advice, service or labor supplied with any aircraft; or

(g) Services you or others trading under your name provide or recommend for use in the manufacture, repair, operation, maintenance or use of any aircraft.

(5) "Grounding" means the withdrawal of one or more aircraft from flight operations or the imposition of speed, passenger or load restrictions on such aircraft, due to the existence of or alleged or suspected existence of any defect, fault or condition:

(a) In such aircraft or any part sold, handled or distributed by you or that is manufactured, assembled or processed by any other person or organization according to your specifications, plans, suggestions, orders or drawings; or

(b) With tools, machinery or other equipment furnished to such persons or organizations by you;

whether such withdrawn aircraft are owned or operated by the same or different persons or organizations.

"Grounding" shall be deemed to commence on the date of an "occurrence" which discloses the necessity of "grounding" or on the date an aircraft is first withdrawn from service because of such condition, whichever comes first.

(6) "Testing" means examination, observation, evaluation or measuring of the performance of "aircraft products", while either in the air or on the ground.

q. Distribution of Material in Violation of Statutes

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

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any other laws, statutes, ordinances or regulations, that address, prohibit, or limit the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

r. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in paragraphs (1) or (2) above.

However, unless paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing

devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

Exclusions c., d., e., g., h., and k., l., m., n. and o. above do not apply to damage to premises while rented to you or temporarily occupied by you with permission of the owner. A separate Damage to Premises Rented to You Limit of Insurance applies to this coverage as described in **SECTION II - LIABILITY, D. Liability and Medical Expenses Limits of Insurance.**

2. Additional Exclusions Applicable Only to "Personal and Advertising Injury"

This insurance does not apply to:

a. Knowing Violation of Rights of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior to Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality or Performance of Goods-Failure to Conform to Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Insureds In Media and Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web-sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to **F. Liability and Medical Expenses Definitions, 15. "Personal and Advertising Injury"**, paragraphs a., b. and c.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself considered the business of advertising, broadcasting, publishing or telecasting.

j. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

k. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) 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) 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".

l. Electronic Chatrooms or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns or over which the insured exercises control.

m. Infringement of Copyright, Patent, Trademark or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement in your "advertisement" of copyright, trade dress or slogan.

n. Unauthorized Use of Another's Name of Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

3. Additional Exclusions Applicable to Medical Expenses Coverage Only

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury on Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation and Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for

the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletic Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products - completed operations hazard".

g. Otherwise Excluded

Otherwise Excluded under **SECTION II - LIABILITY, B. Exclusions, 1. Applicable To Business Liability Coverage.**

4. Additional Exclusions Applicable To Both Business Liability Coverage and Medical Expenses Coverage:

Nuclear Energy Liability Exclusion

This insurance does not apply:

(1) Under Business Liability Coverage, to "bodily injury" or "property damage":

(a) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(b) Resulting from the "hazardous properties" of "nuclear material" and with respect to which:

(i) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or

(ii) The insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

(2) Under Medical Expenses Coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear

material" and arising out of the operation of a "nuclear facility" by any person or organization.

(3) Under Business Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of the "nuclear material"; if:

(a) The "nuclear material":

(i) Is at any "nuclear facility" owned by, or operated by or on behalf of, an insured; or

(ii) Has been discharged or dispersed therefrom;

(b) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or

(c) The "bodily injury" or "property damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility"; but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

(4) As used in this exclusion:

(a) "By-product material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;

(b) "Hazardous properties" include radioactive, toxic or explosive properties;

(c) "Nuclear facility" means:

(i) Any "nuclear reactor";

(ii) Any equipment or device designed or used for:

1) Separating the isotopes of uranium or plutonium;

2) Processing or utilizing "spent fuel"; or

3) Handling, processing or packaging "waste";

(iii) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the



custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(iv) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

(d) "Nuclear material" means "source material", "special nuclear material" or "by-product material";

(e) "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

(f) "Property damage" includes all forms of radioactive contamination of property;

(g) "Source material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;

(h) "Special nuclear material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;

(i) "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor";

(j) "Waste" means any waste material:

(i) Containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content; and

(ii) Resulting from the operation by any person or organization of any "nuclear facility" included under paragraphs (i) and (ii) of the definition of "nuclear facility".

C. Who Is An Insured

1. If you are designated in the Declarations as:

a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

b. A partnership or joint venture, you are an insured. Your members, your partners and their spouses are also insureds, but only with respect to the conduct of your business.

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

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

2. Each of the following is also an insured:

a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily Injury" or "personal and advertising injury";

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

(b) To the spouse, child, parent, brother or sister of that co-

"employee" as a consequence of paragraph (1) (a) above;

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

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

(2) "Property damage" to property:

- (a) Owned, occupied or used by; or

- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

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

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

- (1) With respect to liability arising out of the maintenance or use of that property; and

- (2) Until your legal representative has been appointed.

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

3. Any organization you newly acquire or form, acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

- b. Business Liability Coverage does not apply to:

- (1) "Bodily Injury" or "property damage" that occurred before you acquired or formed the organization; and

- (2) "Personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

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

D. Liability and Medical Expenses Limits of Insurance

1. The Limits of Insurance under **SECTION II - LIABILITY** shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

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

2. Subject to the Aggregate Limit identified in paragraph 5. below, the most we will pay for the sum of all damages because of all:

- a. "Bodily Injury", "property damage" and medical expenses arising out of any one "occurrence"; and
b. "Personal and advertising injury" sustained by any one person or organization;

is the Liability And Medical Expenses Limit shown in the Declarations.

3. Subject to the Liability And Medical Expenses Limit, the most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. The Damage to Premises Rented to You Limit shown in the Declarations is the most we will pay for damages because of "property damage" to any one premises while rented to you, or temporarily occupied by you with permission of the owner.

5. Aggregate Limits

- a. The most we will pay for:

- (1) All "bodily injury" and "property damage" that is included in the "products-completed operations hazard" is twice the Liability And Medical Expenses Limit.

- (2) All:

- (a) "Bodily Injury" and "property damage" except damages because of "bodily injury" and



"property damage" included in the "products-completed operations hazard";

(b) Plus medical expenses;

(c) Plus all "personal and advertising injury" caused by offenses committed;

Is twice the Liability And Medical Expenses Limit.

b. The Aggregate Limits of Insurance apply separately to each of your "locations" owned by or rented to you. "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

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

E. Liability and Medical Expenses General Conditions

1. Bankruptcy

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

2. Duties in the Event of Occurrence, Offense, Claim or Suit

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

(1) How, when and where the "occurrence" or offense took place;

(2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

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

(1) Immediately record the specifics of the claim or "suit" and the date received; and

(2) Notify us as soon as practicable.

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

c. You and any other involved insured must:

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation, or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

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

3. Legal Action Against Us

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

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this policy unless all of its terms have been fully complied with.

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

4. Separation of Insureds

Except with respect to the Limits of Insurance under **SECTION II - LIABILITY**, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom claim is made or "suit" is brought.

F. Liability and Medical Expenses Definitions

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "Auto" means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

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

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. "Bodily Injury" includes mental anguish or other mental injury resulting from "bodily injury".

4. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
- c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in paragraph a. above;
 - (2) The activities of a person whose home is in the territory described in paragraph a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in paragraph a. above or in a settlement we agree to.

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

6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

If such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work", or your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization.



Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

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

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in paragraph (2) above and supervisory, inspection or engineering services.

10. "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".

11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

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

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, on which are permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in paragraphs a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in paragraphs a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility

law or other motor vehicle insurance law in the state where they are licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
 - a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
 - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
 - f. The use of another's advertising idea in your "advertisement"; or
 - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
15. "Pollutants" mean 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.
16. "Products - completed operations hazard":
 - a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at the job site has been put to its intended use by any other person or organization other than another contractor or subcontractor working on the same project.

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

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage", "personal and advertising injury" to which this Insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the Insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the Insured submits with our consent.

19. "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.

20. "Unmanned aircraft" means an aircraft that is not:

- a. Designed;
- b. Manufactured; or
- c. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

21. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

22. "Your product":

a. Means:

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

- (a) You;
- (b) Others trading under your name; or
- (c) A person or organization whose business or assets you have acquired; and

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

b. Includes:

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

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

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

23. "Your work":

a. Means:

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

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

b. Includes:

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

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

SECTION III - COMMON POLICY CONDITIONS (APPLICABLE TO SECTION I - PROPERTY AND SECTION II - LIABILITY)

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.

2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

a. 5 days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this policy:

(1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:

- (a) Seasonal unoccupancy; or
- (b) Buildings in the course of construction, renovation or addition.

Buildings with 65% or more of the rental units or floor area vacant or unoccupied are considered unoccupied under this provision.

(2) After damage by a covered cause of loss, permanent repairs to the building:

- (a) Have not started; and
- (b) Have not been contracted for, within 30 days of initial payment of loss.

(3) The building has:

- (a) An outstanding order to vacate;
- (b) An outstanding demolition order; or
- (c) Been declared unsafe by governmental authority.

(4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.

(5) Failure to:

- (a) Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or
 - (b) Pay property taxes that are owed and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.
- b. 10 days before the effective date of cancellation if we cancel for nonpayment of premium.
- c. 30 days before the effective date of cancellation if we cancel for any other reason.

3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.

4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be

amended or waived only by endorsement issued by us and made a part of this policy.

C. Concealment, Misrepresentation or Fraud

This policy is void in any case of fraud by you as it relates to this policy at any time. It is also void if you or any other insured, at any time, intentionally conceals or misrepresents a material fact concerning:

- 1. This policy;
- 2. The Covered Property;
- 3. Your interest in the Covered Property; or
- 4. A claim under this policy.

D. Examination of Your Books and Records

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

E. Inspections and Surveys

- 1. We have the right but not the duty to:
 - a. Make inspections and surveys at any time;
 - b. Give you reports on the conditions we find; and
 - c. Recommend changes.
- 2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. We do not warrant that conditions:
 - a. Are safe and healthful; or
 - b. Comply with laws, regulations, codes or standards.
- 3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
- 4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

F. Insurance Under Two or More Coverages

If two or more of this policy's coverages apply to the same loss or damage, you may choose only one of these coverages to apply to that loss.



1. **SECTION I - PROPERTY**, If two or more of this coverage part's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

2. **SECTION II - LIABILITY**, It is our stated intent that the various Coverage Parts, forms, endorsements or policies issued to the named Insured by us, or any company affiliated with us, do not provide any duplication or overlap of coverage for the same claim, "suit", "occurrence", offense, accident, "wrongful act" or loss. We will not pay more than the actual amount of the loss or damage.

If this Coverage Part and any other Coverage Part, form, endorsement or policy issued to the named Insured by us, or any company affiliated with us, apply to the same claim, "suit", occurrence, offense, accident, "wrongful act" or loss, the maximum Limit of Insurance under all such Coverage Parts, forms, endorsements or policies combined shall not exceed the highest applicable Limit of Insurance under any one Coverage Part, form, endorsement or policy.

This condition does not apply to any Excess or Umbrella Policy issued by us specifically to apply as excess insurance over this policy.

G. Liberalization

If we adopt any revision that would broaden the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

H. Other Insurance

1. SECTION I - PROPERTY

If there is other Insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other Insurance, whether you can collect on it or not. But, we will not pay more than the applicable Limit of Insurance of **SECTION I - PROPERTY**.

2. SECTION II - LIABILITY

If other valid and collectible Insurance is available to the Insured for a loss we cover under **SECTION II - LIABILITY**, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when paragraph b. below applies. If this Insurance is primary, our obligations are not affected unless any of the other Insurance is also primary. Then, we will share with all that other Insurance by the method described in paragraph c. below.

However, if you agree in a written contract, written agreement, or written permit that the Insurance provided to any person or organization included as an Additional Insured under this Coverage Part is primary and non-contributory, we will not seek contribution from any other Insurance available to that Additional Insured which covers the Additional Insured as a Named Insured except:

- (1) For the sole negligence of the Additional Insured; or
- (2) When the Additional Insured is an Additional Insured under another liability policy.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other Insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (b) That is Property Insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (c) That is Insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to **SECTION II - LIABILITY, Exclusion g. Aircraft, Auto or Watercraft**; and
- (2) Any other primary Insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional Insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under **SECTION II - LIABILITY** to defend the Insured against any "suit" if any other insurer has a duty to defend the Insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the

Insured's rights against all those other Insurers.

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

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

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

e. Method of Sharing

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

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

- f. When this Insurance is excess, we will have no duty under Business Liability Coverage to defend any claim or "suit" that any other insurer has a duty to defend. If no other Insurer defends, we will undertake to do so; but we will be entitled to the Insured's rights against all those other Insurers.

I. Premiums

1. The first Named Insured shown in the Declarations:

- a. Is responsible for the payment of all premiums; and
- b. Will be the payee for any return premiums we pay.

2. The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation or anniversary of the effective date of this policy, we will compute the

premium in accordance with our rates and rules then in effect.

3. With our consent, you may continue this policy in force by paying a continuation premium for each successive one-year period. The premium must be:

- a. Paid to us prior to the anniversary date; and
- b. Determined in accordance with paragraph 2. above.

Our forms then in effect will apply. If you do not pay the continuation premium, this policy will expire on the first anniversary date that we have not received the premium.

4. Undeclared exposures or change in your business operation, acquisition or use of locations may occur during the policy period that is not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules then in effect.

J. Premium Audit

1. This policy is subject to audit if a premium designated as an advance premium is shown in the Declarations. We will compute the final premium due when we determine your actual exposures.
2. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
3. The first Named Insured must keep records of the information we need for premium computation and send us copies at such times as we may request.

K. Transfer of Rights of Recovery Against Others to Us

1. Applicable to **SECTION I - PROPERTY Coverage:**

If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

a. Prior to a loss to your Covered Property.

b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:

(1) Someone insured by this insurance;

(2) A business firm:

(a) Owned or controlled by you; or

(b) That owns or controls you; or

(3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

2. Applicable to **SECTION II - LIABILITY** Coverage:

If the Insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The Insured must do nothing after loss to impair such rights. At our request, the Insured will bring "suit" or transfer those rights to us and help us enforce them.

We waive any right of recovery we may have against any person or organization with whom you have a written contract, permit or agreement to waive any rights of recovery against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".

This condition does not apply to Medical Expenses Coverage.

L. **Transfer of Your Rights and Duties Under This Policy**

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an Individual Named Insured. If you die, your rights and duties will be transferred to your legal representative but only while that legal representative is acting within the scope of their duties as your legal representative. Until your legal representative is appointed, anyone with proper temporary custody of your property will have your rights and duties but only with respect to that property.

This page intentionally left blank.

Attachment 3

This page intentionally left blank.

**AMENDMENT NO. 7
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS AMENDMENT NO. 7 to Professional Services Agreement No. A-12442 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Denise Duffy & Associates, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into Professional Services Agreement No. A-12442 with County on May 1, 2013 (hereinafter, "Agreement") to provide a Programmatic Biological Assessment (BA) and Initial Study (IS) for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan for Phases 1 and 2 (hereinafter, "Project") through April 23, 2014 for an amount not to exceed \$353,100; and

WHEREAS, Agreement was amended by the Parties on April 10, 2014 (hereinafter, "Amendment No. 1") to extend the term for one (1) additional year through April 23, 2015 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on June 13, 2014 (hereinafter, "Amendment No. 2", including Exhibit A-1 – Scope of Services/Payment Provisions) to increase the amount by \$193,571 which resulted in a total not to exceed amount of \$546,671 to revise the original scope of the Agreement to provide for a Focused Environmental Impact Report (EIR) (hereinafter, "services") for completion of Phase 2 of the Project with no extension to the term; and

WHEREAS, Agreement was amended by the Parties on April 23, 2015 (hereinafter, "Amendment No. 3") to extend the term for approximately fourteen (14) additional months through June 30, 2016 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on October 19, 2015 (hereinafter, "Amendment No. 4", including Exhibit A-2 – Scope of Services/Payment Provisions) to extend the term for six (6) additional months through December 31, 2016 and to increase the amount by \$277,883 which resulted in a total not to exceed amount of \$824,554; and

WHEREAS, Agreement was amended by the Parties on December 9, 2016 (hereinafter, "Amendment No. 5") to extend the term for eighteen (18) additional months through June 30, 2018 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on May 31, 2018 (hereinafter, "Amendment No. 6") to extend the term for eighteen (18) additional months through December 31, 2019 with no increase in the not to exceed amount; and

WHEREAS, due to delays in the ongoing coordination with landowners and stakeholders related to the environmental review process, completion of Phase 2 of the Project has not been completed; and

WHEREAS, additional time is necessary to allow for completion of tasks for the Project; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term for two (2) additional years to December 31, 2021 with no associated dollar amount increase to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 7.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from April 23, 2013 to December 31, 2021, unless sooner terminated pursuant to the terms of this Agreement.

2. Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number #3000*844, Project name and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to RMA-Finance-AP-GP@co.monterey.ca.us:

County of Monterey
Resource Management Agency (RMA) – Finance Division
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527


Any questions pertaining to invoices under this Agreement should be directed to the RMA Finance Division at (831) 755-4800 or via email to: RMA-Finance-AP-GP@co.monterey.ca.us.

3. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
4. This Amendment No. 7 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
5. The recitals to this Amendment No. 7 are incorporated into the Agreement and this Amendment No. 7.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 7 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

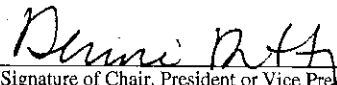
COUNTY OF MONTEREY

CONTRACTOR*

By: 
Contracts/Purchasing Officer


Denise Duffy & Associates, Inc.
Contractor's Business Name

Date: 12/9/19

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

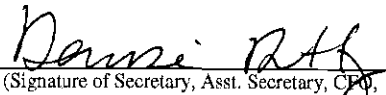
Approved as to Form and Legality
Office of the County Counsel-Risk Manager
Leslie J. Girard, County Counsel-Risk Manager

Its: Denise Duffy, President
(Print Name and Title)

By: 
Brian P. Briggs
Deputy County Counsel

Date: 11/25/19

Date: 11-27-19

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

Its: Denise Duffy, Secretary
(Print Name and Title)

Date: 11/25/19

Approved as to Fiscal Provisions

By: 
Auditor/Controller

Date: 12/5/2019

Approved as to Indemnity and Insurance Provisions
Office of the County Counsel-Risk Manager
Leslie J. Girard, County Counsel-Risk Manager

By: _____

Name: _____

Title: _____

Date: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/5/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER (HD) Heffernan Insurance Brokers 1350 Carback Avenue Walnut Creek CA 94596	CONTACT NAME: Elizabeth Lee		
	PHONE (A/C, No, Ext): 925-934-8500	FAX (A/C, No): 925-934-8278	
	E-MAIL ADDRESS: elizabethl@heffins.com		
INSURED Denise Duffy & Associates 947 Cass Street, Suite 5 Monterey CA 93940	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Citizens Insurance Company of America		31534
	INSURER B: The Hanover American Insurance Company		36064
	INSURER C: Continental Casualty Company		20443
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES**CERTIFICATE NUMBER:** 1803014648**REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	OB39169912	9/1/2019	9/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	OB39169912	9/1/2019	9/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ Included in GL BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$		OB39169912	9/1/2019	9/1/2020	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	WZ3916990608	9/1/2019	9/1/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability		EEH276198480	11/5/2019	11/5/2020	PER CLAIM AGGREGATE 2,000,000 2,000,000

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

Re: As Per Contract or Agreement on File with the Insured - All Projects.

County of Monterey Contracts & Purchasing Division, The County of Monterey, Its Officers, Agents and Employees are included as an additional insured with respects to the General Liability and Automobile Liability policies per the attached endorsements, if required. General Liability policy is primary and non-contributory per the attached endorsement, if required.

CERTIFICATE HOLDER**CANCELLATION**

County of Monterey
Contracts & Purchasing Division
168 W. Alisal St., 3rd Fl.
Salinas, CA 93901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY SUPPLEMENTARY ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

A. Additional Insured by Contract, Agreement or Permit

The following is added to **SECTION II - LIABILITY, C. Who Is An Insured:**

Additional Insured by Contract, Agreement or Permit

a. Any person or organization with whom you agreed in a written contract, written agreement or permit that such person or organization to add as an additional insured on your policy is an additional insured only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by your acts or omissions, or the acts or omissions of those acting on your behalf, but only with respect to:

(1) "Your work" for the additional insured(s) designated in the contract, agreement or permit including "bodily injury" or "property damage" included in the "products-completed operations hazard" only if this Coverage Part provides such coverage.

(2) Premises you own, rent, lease or occupy; or

(3) Your maintenance, operation or use of equipment leased to you.

b. The insurance afforded to such additional insured described above:

(1) Only applies to the extent permitted by law; and

(2) Will not be broader than the insurance which you are required by the contract, agreement or permit to provide for such additional insured.

(3) Applies on a primary basis if that is required by the written contract, written agreement or permit.

(4) Will not be broader than coverage provided to any other insured.

(5) Does not apply if the "bodily injury", "property damage" or "personal and advertising injury" is otherwise excluded from coverage under this Coverage Part, including any endorsements thereto.

c. This provision does not apply:

(1) Unless the written contract or written agreement was executed or permit was issued prior to the "bodily injury", "property damage", or "personal

injury and advertising injury".

(2) To any person or organization included as an insured by another endorsement issued by us and made part of this Coverage Part.

(3) To any lessor of equipment:

(a) After the equipment lease expires; or

(b) If the "bodily injury", "property damage", or "personal and advertising injury" arises out of sole negligence of the lessor

(4) To any:

(a) Owners or other interests from whom land has been leased if the "occurrence" or offense takes place or the offense is committed after the lease for the land expires; or

(b) Managers or lessors of premises if:

(i) The "occurrence" takes place or the offense is committed after you cease to be a tenant in that premises; or

(ii) The "bodily injury", "property damage", "personal injury" or "advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor.

(5) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" or the offense which caused the "personal and advertising injury" involved the rendering of or failure to render any professional services by or for you.

d. With respect to the insurance afforded to these additional insureds, the following is added to **SECTION II - LIABILITY, D. Liability and Medical Expense Limits of Insurance:**

The most we will pay on behalf of the additional insured for a covered claim is the lesser of the amount of insurance:

1. Required by the contract, agreement or permit described in Paragraph a.; or
2. Available under the applicable Limits of Insurance shown in the Declarations.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations

B. Aggregate Limits of Insurance per Project or per Location

The following changes are made to **SECTION II - LIABILITY**:

1. The following is added to **SECTION II - LIABILITY, D. Liability and Medical Expenses Limits of Insurance**, paragraph 4:

The Aggregate Limits of Insurance apply separately to each of "your projects" or each "location" listed in the Declarations.

2. For the purpose of coverage provided by this endorsement only, the following is

added to **SECTION II - LIABILITY, F. Liability And Medical Expenses Definitions**:

1. "Your project" means:
 - a. Any premises, site or "location" at, on, or in which "your work" is not yet completed; and
 - b. Does not include any "location" listed in the Declarations.
2. "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

BUSINESSOWNERS COVERAGE FORM

Table of Contents

SECTION I - PROPERTY

	Page Number
A. Coverage	4
1. Covered Property	4
2. Property Not Covered	5
3. Covered Causes of Loss	6
4. Limitations	6
5. Additional Coverages	7
Business Income.....	10
Business Income from Dependent Properties.....	17
Civil Authority.....	13
Collapse.....	8
Commercial Tools and Small Equipment.....	27
Computer Equipment.....	20
Computer and Funds Transfer Fraud.....	34
Debris Removal.....	7
Deferred Payments.....	31
Electronic Vandalism.....	31
Employee Theft including ERISA Compliance.....	18
Equipment Breakdown.....	22
Extra Expense.....	12
Fine Arts.....	28
Fire Department Service Charge.....	8
Fire Protection Equipment Recharge.....	18
Forgery or Alteration.....	13
Glass Expenses.....	18
Installation.....	27
Interruption of Computer Operations.....	32
Leasehold Interest (Tenants only).....	29
Limited Coverage for Fungi, Wet Rot, or Dry Rot.....	33
Money and Securities.....	21
Money Orders and Counterfeit Money.....	13
Ordinance or Law.....	14
Preservation of Property.....	8
Pollutant Clean-Up and Removal.....	12
Rewards- Arson, Theft and Vandalism.....	20
Sales Representative Samples.....	29
Tenant Building Insurance - When Your Lease Requires You to Provide Insurance.....	34
Tenant Business Personal Property Insurance - When Your Lease Requires You to Provide Insurance.....	34
Tenant Signs (Tenants Only).....	22
Theft of Telephonic Services.....	34
Unauthorized Business Credit Card Use.....	30
Utility Services.....	30
Water Damage, Other Liquids, Powder or Molten Material Damage.....	10

6. Coverage Extensions.....	35
Accounts Receivable.....	37
Business Personal Property Temporarily in Portable Storage Units.....	39
Appurtenant Structures.....	38
Inventory and Loss Appraisal.....	39
Key Replacement and Lock Repair.....	38
Newly Acquired or Constructed Property.....	35
Outdoor Property.....	36
Paved Surfaces.....	39
Personal Effects.....	36
Personal Property Off Premises.....	36
Personal Property In Transit.....	38
Valuable Papers and Records (Other Than Electronic Data).....	36
Underground Pipes.....	40
B. Exclusions.....	40
C. Limits of Insurance.....	45
D. Deductibles.....	46
E. Property Loss Conditions.....	47
1. Abandonment.....	47
2. Appraisal.....	47
3. Duties in the Event of Loss or Damage.....	47
4. Legal Action Against Us.....	48
5. Loss Payment.....	48
6. Recovered Property.....	50
7. Vacancy.....	50
8. Pair, Sets or Parts.....	51
F. Property General Conditions.....	51
1. Control of Property.....	51
2. Mortgageholders.....	51
3. No Benefit to Bailee.....	52
4. Policy Period, Coverage Territory.....	52
5. Protective Devices.....	52
6. Increase in Hazard.....	52
G. Property Definitions.....	52
 SECTION II - LIABILITY	
A. Coverages.....	59
1. Business Liability.....	59
2. Medical Expenses.....	61
B. Exclusions.....	62
1. Applicable to Business Liability Coverage.....	62
2. Additional Exclusions Applicable only to Personal and Advertising Injury.....	68
3. Additional Exclusions Applicable to Medical Expenses Coverage Only.....	69
4. Additional Exclusions Applicable to Both Business Liability Coverage and Medical Expenses Coverage - Nuclear Energy Liability Exclusion.....	70
C. Who is an Insured.....	71
D. Liability and Medical Expenses Limits of Insurance.....	72

E. Liability and Medical Expenses General Conditions.....	73
1. Bankruptcy.....	73
2. Duties in the Event of Occurrence, Offense, Claim or Suit.....	73
3. Legal Action Against Us.....	73
4. Separation of Insureds.....	73
F. Liability and Medical Expenses Definitions.....	74

SECTION III - COMMON POLICY CONDITIONS (APPLICABLE TO SECTION I - PROPERTY AND SECTION II - LIABILITY)

A. Cancellation.....	77
B. Changes.....	78
C. Concealment, Misrepresentation or Fraud.....	78
D. Examination of Your Books and Records.....	78
E. Inspections and Surveys.....	78
F. Insurance Under Two or More Coverages.....	78
G. Liberalization.....	79
H. Other Insurance.....	79
I. Premiums.....	80
J. Premium Audit.....	80
K. Transfer of Rights of Recovery Against Others to Us.....	80
L. Transfer of Your Rights and Duties Under This Policy.....	81

BUSINESSOWNERS 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 Coverage Form 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.

In **SECTION II - LIABILITY**, the word "insured" means any person or organization qualifying as such under paragraph **C. Who is an Insured**.

Other words and phrases that appear in quotation marks have special meaning. Refer to paragraph **G. Property Definitions** in **SECTION I - PROPERTY** and paragraph **F. Liability and Medical Expenses Definitions** in **SECTION II - LIABILITY**.

SECTION I - PROPERTY

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Property

Covered Property includes Buildings as described in paragraph a. below, Business Personal Property as described in paragraph b. below, or both, depending on whether a Limit of Insurance is shown in the Declarations for that type of property. Regardless of whether coverage is shown in the Declarations for Buildings, Business Personal Property, or both, there is no coverage for property described in **SECTION I - PROPERTY, A. Coverage, 2. Property Not Covered**.

a. Buildings, meaning the buildings and structures at the premises described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:
 - (a) Machinery; and
 - (b) Equipment;
- (4) Your personal property in apartments, rooms or common areas furnished by you as the landlord;
- (5) Personal property owned by you that is used to maintain or service the buildings or structures or the premises, including:
 - (a) Fire protection equipment;
 - (b) Outdoor furniture;
 - (c) Floor coverings; and

(d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;

(6) If not covered by other insurance

(a) Additions under construction, alterations and repairs to the buildings or structures;

(b) Materials, equipment, supplies and temporary structures, on or within 1,000 feet of the described premises, used for making additions, alterations or repairs to the buildings or structures.

(7) Signs, whether or not they are attached to covered buildings or structures;

(8) Interior and Exterior Building glass if you are a building owner;

(9) Fences and retaining walls located on or within 1,000 feet of a covered building or structure, whether or not attached to buildings or structures, except for retaining walls that are used, in whole or in part, to contain water.

b. Business Personal Property located in or on the buildings or structures at the described premises or in the open (or in a vehicle) within 1,000 feet of the building or structures or within 1,000 feet of the premises described in the Declarations, whichever distance is greater, including:

(1) Property you own that is used in your business;

(2) Property of others that is in your care, custody or control, including the cost of labor, materials or services furnished or arranged by you on personal property of others, except as otherwise provided in **SECTION I -**



PROPERTY, E. Property Loss Condition, 5. Loss Payment paragraph d., subparagraph (3)(b);

- (3) Tenant's improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:

(a) Made a part of the building or structure you occupy but do not own; and

(b) You acquired or made at your expense but cannot legally remove.

- (4) Leased personal property for which you have a written contractual responsibility to insure, unless otherwise provided in paragraph (2) above;

- (5) Exterior building glass, if you are a tenant and no Limit of Insurance is shown in the Declarations for Building property. The glass must be owned by you or in your care, custody or control;

- (6) Physical damage sustained to a building leased to you caused by or resulting from "theft" or attempted "theft", burglary or robbery of your Business Personal Property.

2. Property Not Covered

Covered Property does not include:

- a. Aircraft, automobiles, motortrucks and other vehicles subject to motor vehicle registration;

- b. Contractor's equipment, which is used or operated principally away from the premises described in the Declarations, or parts and equipment, whether attached or unattached to contractor's equipment, unless such parts and equipment is held for sale by you, or sold by you but not delivered unless specifically endorsed and scheduled, or as provided for in **SECTION I - PROPERTY, B. Additional Coverages, v. Commercial Tools and Small Equipment;**

- c. "Money" or "securities" except as provided in the:

(1) Money and Securities Additional Coverage; or

(2) Employee Theft Additional Coverage;

- d. Contraband or property in the course of illegal transportation or trade;

- e. Land, whether or not resurfaced with stone, gravel or similar layer (including

land on which the property is located), water, growing crops or lawns (other than lawns which are part of a vegetated roof), except as provided in **SECTION I - PROPERTY, A. Coverage, 6. Coverage Extension, i. Paved Surfaces;**

- f. Outdoor radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, trees, shrubs or plants (other than trees, shrubs or plants which are part of a vegetated roof), all except as provided in **SECTION I - PROPERTY, A. Coverage, 6. Coverage Extension, c. Outdoor Property;**

- g. Watercraft (including motors, equipment and accessories);

- h. Accounts, bills, food stamps, other evidences of debt, accounts receivable or "valuable papers and records"; except as otherwise provided in this Coverage Form;

- i. "Computer equipment", which is permanently installed or designed to be permanently installed in any aircraft, watercraft, motortruck or other vehicle subject to motor vehicle registration. This paragraph does not apply to "computer equipment" while held as "stock";

- j. "Electronic Data", except as provided under the Computer Equipment and Electronic Vandalism Additional Coverages. This paragraph does not apply to your "stock" of prepackaged "software" or to "electronic data" which is integrated in and operates or controls the building's elevator, lighting, heating, ventilation, air conditioning or security system;

- k. Animals, unless owned by others and boarded by you, or held for sale by you, or sold but not delivered, and only while inside of buildings;

- l. The cost of excavations, grading, backfilling, or filling;

- m. Bulkheads, pilings, piers, wharves or docks;

- n. Retaining walls that are used, in whole or in part, to contain water.

- o. "Computer Equipment", except as provided for under the:

(1) Computer Equipment Additional Coverage;

(2) Equipment Breakdown Additional Coverage; or

(3) Electronic Vandalism Additional Coverage.

- p. Commercial tools and small equipment except as provided in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, v. Commercial Tools and Small Equipment** or for contractor's equipment specifically endorsed and scheduled. This does not apply to your commercial tools and small equipment permanently installed or exclusively used at the described premises;
- q. Employee tools and small equipment except as provided for in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, v. Commercial Tools and Small Equipment** or when added by separate endorsement;
- r. Bridges (unless the bridge is made a part of a covered Building), roadways, walks, patios or other paved surfaces, except as provided in **SECTION I - PROPERTY, A. Coverage, 6. Coverage Extensions, l. Paved Surfaces**;
- s. Underground pipes, flues or drains except as provided in **SECTION I - PROPERTY, A. Coverage, 6. Coverage Extensions, m. Underground Pipes**; and
- t. Personal Property while airborne or waterborne.

3. Covered Causes of Loss

Risks of direct physical loss unless the loss is:

- a. Excluded in **SECTION I - PROPERTY, B. Exclusions**; or
- b. Limited in **SECTION I - PROPERTY, A. Coverages, 4. Limitations**

4. Limitations

- a. We will not pay for loss of or damage to:
 - (1) Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property. This limitation does not apply to **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, s. Money and Securities**.
 - (2) Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
 - (3) The interior of any building or structure, or to personal property

in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:

- (a) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
 - (b) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
- (4) Lawns, trees, shrubs or plants which are part of a vegetated roof, caused by or resulting from:
- (a) Dampness or dryness of atmosphere or of soil supporting the vegetation;
 - (b) Changes in or extremes of temperature;
 - (c) Disease;
 - (d) Frost or hail; or
 - (e) Rain, snow, ice or sleet.
- b. We will not pay for loss of or damage to the following types of property unless caused by any of the "specified causes of loss" or building glass breakage:
- (1) Animals, and then only if they are killed or their destruction is made necessary.
 - (2) Fragile articles such as glassware, statuary, marble, chinaware and porcelain, if broken. This restriction does not apply to:
 - (a) Glass that is part of the exterior or interior of a building or structure;
 - (b) Containers of property held for sale; or
 - (c) Photographic or scientific instrument lenses.
- c. For loss or damage by "theft", the following types of property are covered only up to the limits shown:
- (1) \$10,000 for furs, fur garments and garments trimmed with fur.
 - (2) \$10,000 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$250 or less per item.



5. Additional Coverages

a. Debris Removal

- (1) Subject to paragraphs (2), (3) and (4) below, we will pay your expense to remove debris of Covered Property and other debris that is on the described premises, when such debris is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
 - (a) Remove debris of property of yours that is not insured under this Coverage Form, or property in your possession that is not Covered Property;
 - (b) Remove debris of property owned or leased to the landlord of the building where your described premises are located, unless you have a contractual responsibility to insure such property and it is insured under this Coverage Form;
 - (c) Remove any property that is Property Not Covered except as provided under the Outdoor Property Coverage Extension;
 - (d) Remove property of others of a type that would not be Covered Property under this Coverage Form;
 - (e) Remove deposits of mud or earth from the grounds of the described premises;
 - (f) Extract "pollutants" from land or water; or
 - (g) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in paragraph (4) below, the following provisions apply:
 - (a) The most that we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.

- (b) Subject to paragraph (a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage. However, if no Covered Property has sustained direct physical loss or damage, the most we will pay for removal of debris of other property (if such removal is covered under this Additional Coverage) is \$5,000 at each location.

- (4) We will pay up to an additional \$25,000 for debris removal expense, for each location, in any one occurrence of physical loss of or damage to Covered Property, if one or both of the following circumstances apply:

- (a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.
- (b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss of or damage to the Covered Property that has sustained loss or damage.

Therefore, if paragraphs (a) and/or (b) above apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$25,000.

(5) Examples

Example #1

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 50,000
Amount of Loss Payable	\$ 49,500
(\$50,000 - \$500)	
Debris Removal Expense	\$ 10,000
Debris Removal Expense	

Payable \$ 10,000
(\$10,000 is 20% of \$50,000)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore the full amount of debris removal expense is payable in accordance with the terms of paragraph (3) above.

Example #2

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 80,000
Amount of Loss Payable	\$ 79,500
(\$80,000 - \$500)	
Debris Removal Expense	\$ 40,000
Debris Removal Expense Payable	
Basic Amount	\$ 10,500
Additional Amount	\$ 25,000

The basic amount payable for debris removal expense under the terms of paragraph (3) above is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000 (capped at \$10,500). The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of paragraph (4) above, because the debris removal expense (\$40,000) exceeds 25% of the loss payable plus the deductible (\$40,000 is 50% of \$80,000), and because (from paragraph (3) (a)) the sum of the loss payable and debris removal expense (\$79,500 + \$40,000 = \$119,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$25,000, the maximum payable under paragraph (4) above. Thus the total payable for debris removal expense in this example is \$35,500; \$4,500 of the

debris removal expense is not covered.

b. Preservation of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss of or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 90 days after the property is first moved.

This Additional Coverage does not increase the applicable Limit of Insurance.

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$25,000 for service at each premises described in the Declarations, unless a higher Limit of Insurance is shown in the Declarations. Such limit is the most we will pay regardless of the number of responding fire departments or fire units, and regardless of the number or type of services performed.

This Additional Coverage applies to your liability for fire department services charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

d. Collapse

The coverage provided under this Additional Coverage - Collapse applies only to an abrupt collapse as described and limited in paragraphs (1), (2), (3), (4), (5), (6) and (7) below.

- (1) For the purpose of this Additional Coverage - Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.
- (2) We will pay for direct physical loss of or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this policy or that contains Covered Property

- insured under this policy, if such collapse is caused by one or more of the following:
- (a) Building decay that is hidden from view, unless the presence of such decay is known to any insured prior to collapse;
 - (b) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to any insured prior to collapse;
 - (c) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation; or
 - (d) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:
 - (i) A cause of loss listed in paragraphs (a) or (b) above of this Additional Coverage;
 - (ii) One or more of the "specified causes of loss";
 - (iii) Breakage of building glass;
 - (iv) Weight of people or personal property; or
 - (v) Weight of rain that collects on a roof.
- (3) This Additional Coverage - Collapse does not apply to:
- (a) A building or any part of a building that is in danger of falling down or caving in;
 - (b) A part of a building that is standing, even if it has separated from another part of the building; or
 - (c) A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
- (4) With respect to the following property:
- (a) Awnings;
 - (b) Gutters and downspouts;

- (c) Yard Fixtures;
- (d) Outdoor swimming pools;
- (e) Beach or diving platforms or appurtenances;
- (f) Retaining walls; and
- (g) Walks, roadways and other paved surfaces;

If an abrupt collapse is caused by a cause of loss listed in paragraph (2), subparagraphs (a), (b), (c) and (d) of this Additional Coverage, we will pay for loss or damage to that property only if such loss or damage is a direct result of the abrupt collapse of a building insured under this Coverage Form and the property is Covered Property under this Coverage Form.

- (5) If personal property abruptly falls down or caves in and such collapse is not the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:
- (a) The abrupt collapse of personal property was caused by a cause of loss listed in paragraph (2), subparagraphs (a), (b), (c) and (d) of this Additional Coverage;
 - (b) The personal property which collapses is inside a building; and
 - (c) The property which collapses is not of a kind listed in paragraph (4) above, regardless of whether that kind of property is considered to be personal property or real property.

The coverage stated in paragraph (5) does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

- (6) This Additional Coverage - Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
- (7) This Additional Coverage - Collapse will not increase **SECTION I - PROPERTY, C. Limits of Insurance.**
- (8) The term Covered Cause of Loss includes the Additional Coverage -

Collapse as described and limited in paragraphs (1), (2), (3), (4), (5), (6) and (7) above.

e. Water Damage, Other Liquids, Powder or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material damage loss occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes.

We will not pay the cost to repair any defect that caused the loss or damage; but we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

- (1) Results in discharge of any substance from an automatic fire protection system; or
- (2) Is directly caused by freezing.

f. Business Income

When Business Income Coverage is provided under this policy:

(1) Business Income

- (a) We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to a described premises shown in the Declarations and for which a Business Income Limit of Insurance is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss.

With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 1,000 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (i) The portion of the building which you rent, lease or occupy;

- (ii) The area within 1,000 feet of the building or within 1,000 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and

- (iii) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.

- (b) We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within the designated, consecutive number of months found on the Declarations Page beginning immediately after the date of direct physical loss or damage. For purposes of this insurance, all recoverable loss ceases when the "period of restoration" ends.

(c) Business Income means the:

- (i) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses;
- (ii) Continuing normal operating expenses incurred, including "payroll expenses". However, if your business is not generating any income because you are primarily in research or development or have not yet brought your product to market, your continuing normal operating expenses, including "payroll expenses", will not be offset by the Net Loss; and
- (iii) "Rental Value".

For manufacturing risks, Net Income includes the net sales value of production.

(2) Extended Business Income

If no Business Income Coverage is provided under this Coverage Form, then there is no Extended Business Income Coverage afforded under this Coverage Form.

(a) Extended Business Income - Other Than Rental Value

If the necessary "suspension" of your "operations" produces a Business Income loss payable under this Coverage Form, we will pay for the actual loss of Business Income you incur during the period that:

(i) Begins on the date property (except "finished stock") is actually repaired, rebuilt or replaced (to the extent necessary to resume "operations") and "operations" are resumed; and

(ii) Ends on the earlier of:

1) The date you could restore your "operations", with reasonable speed, to the level which would generate the Business Income amount that would have existed if no direct physical loss or damage had occurred; or

2) The number of consecutive days shown in the Additional Property Coverage Schedule for Extended Business Income after the date determined in (a) **Extended Business Income - Other Than Rental Value**, paragraph (i) above.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of Business Income must be caused by direct physical

loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

(b) Extended Business Income - Rental Value

If the necessary "suspension" of your "operations" produces a "rental value" loss payable under this Coverage Form, we will pay for the actual loss of "rental value" you incur during the period that:

(i) Begins the date property is actually repaired, rebuilt or replaced and tenantability is restored; and

(ii) Ends the earlier of:

1) The date you could restore tenant occupancy, with reasonable speed, to the level which would generate the "rental value" that would have existed if no direct physical loss or damage had occurred; or

2) The number of consecutive days shown in the Additional Property Coverage Schedule for Extended Business Income after the date determined in (b) **Extended Business Income - Rental Value**, paragraph (i) above.

However, Extended Business Income does not apply to loss of "rental value" incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of "rental value" must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

(iii) We will reduce the amount of your:

Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged

property (including merchandise or "stock") at the described premises or elsewhere.

- (iv) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

This Additional Coverage is not subject to **SECTION I - PROPERTY, C. Limits of Insurance.**

g. Extra Expense

When Business Income Coverage is provided under this Coverage Form:

- (1) We will pay the necessary Extra Expense you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 1,000 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (a) The portion of the building which you rent, lease or occupy;
 - (b) The area within 1,000 feet of the building or within 1,000 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
 - (c) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.
- (2) Extra Expense means expense incurred:
- (a) To avoid or minimize the "suspension" of business and

to continue "operations":

- (i) At the described premises; or
 - (ii) At replacement premises or at temporary locations, including relocation expenses, and costs to equip and operate the replacement or temporary locations.
- (b) To minimize the "suspension" of business if you cannot continue "operations".
- (c) To:
- (i) Repair or replace any property; or
 - (ii) Research, replace or restore the lost information on damaged "valuable papers and records"

to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage or **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverage, f. Business Income.**

With regard to paragraph (i) above, we will pay only for those expenses necessary to expedite the repair or replacement of the property. Under this provision we will not pay for any portion of the ordinary and expected cost to actually repair or replace property.

- (3) We will only pay for Extra Expense that occurs within 12 consecutive months beginning immediately after the date of direct physical loss or damage.
- (4) We will reduce the amount of your Extra Expense loss payment to the extent you can return "operations" to normal and discontinue such Extra Expense.
- (5) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

This Additional Coverage is not subject to **SECTION I - PROPERTY, C. Limits of Insurance.**

h. Pollutant Clean-Up and Removal

We will pay your expense to extract "pollutants" from land or water at the

described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay for each location under this Additional Coverage is \$25,000 for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12 month period of this policy.

i. Civil Authority

When Business Income Coverage is provided under this Coverage Form:

(1) When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises due to direct physical loss or damage to property within one mile of the described premises, provided that both of the following apply:

(a) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property;

(b) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

(2) Civil Authority Coverage for Business Income will begin 72 hours after the time of the

first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

(a) Four consecutive weeks after the date of that action; or

(b) When your Civil Authority Coverage for Business Income ends;

whichever is later.

(3) The definitions of Business Income and Extra Expense contained in **SECTION 1 - PROPERTY, A. Coverage, 5. Additional Coverages, f. Business Income; and g. Extra Expense** also apply to this Additional Coverage.

j. Money Orders and Counterfeit Money

(1) We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, "money" or services:

(a) Money orders issued by any post office, express company or "financial institution" that are not paid upon presentation; or

(b) "Counterfeit money" that is acquired during the regular course of business.

(2) Under this Additional Coverage, all loss:

(a) Caused by one or more persons; or

(b) Involving a single act or series of related acts;

is considered one occurrence.

(3) The most we will pay for any loss under this Additional Coverage is \$5,000.

k. Forgery or Alteration

(1) We will pay for loss resulting directly from forgery or alteration of any:

(a) Check, draft, promissory note, bill of exchange or similar written promises of payment in "money" that you or your agent has issued, or that was issued

by someone who impersonates you or your agent; and

- (b) Credit, debit or charge slips or documents, including signatures or the entry of a Personal Identification Number (PIN) into a "payment processing device" required with the use of any credit, debit, or charge card issued to you or any "employee" for business purposes.

- (2) Under this Additional Coverage, all loss:

- (a) Caused by one or more persons; or
- (b) Involving a single act or series of related acts;

is considered one occurrence.

- (3) If you are sued for refusing to pay the check, draft, promissory note, bill of exchange or similar written promises of payment in "money", on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur in that defense.

- (4) For purposes of this Additional Coverage, check includes a substitute check as defined by the United States Congress in the Check Clearing for the 21st Century Act and will be treated the same as the original it replaced.

- (5) The most we will pay for any loss, including legal expenses, under this Additional Coverage is \$25,000, unless a higher Limit of Insurance is shown in the Schedule of Amended Limits of Insurance.

I. Ordinance or Law

- (1) This Additional Coverage applies only to buildings insured on a replacement cost basis.

(2) Application of Coverages:

The coverages provided under this Additional Coverage applies only if paragraphs (a) and (b) below, are satisfied and are then subject to the qualifications found in (c) below.

- (a) The ordinance or law:

- (i) Regulates the demolition, construction or repair of buildings, or establishes

zoning or land use requirements at the described premise;

- (ii) Is in force at the time of loss; and

- (iii) Was not in force at the time the involved construction was completed.

But coverage under this Additional Coverage applies only in response to the minimum requirements of the ordinance or law. Losses and costs incurred in complying with recommended actions or standards that exceed actual requirements are not covered under this Additional Coverage.

- (b) The building sustains direct physical damage:

- (i) That is covered under this Coverage Form and as a result of such damage, you are required to comply with the ordinance or law; or

- (ii) That is covered under this Coverage Form and direct physical damage that is not covered under this Coverage Form and as a result of the building damage in its entirety, you are required to comply with the ordinance or law.

- (iii) But if the damage is not covered under this Coverage Form and such damage is the subject of the ordinance or law, then there is no coverage under this Additional Coverage even if building has also sustained covered direct physical damage.

- (c) In the situation described in

(2) Application of Coverages, paragraph (b), subparagraph

(ii) above, we will not pay the full amount of loss otherwise payable under the terms of coverages for Coverage for Loss to the Undamaged Portion of the Building, Demolition Cost Coverage or Increased Cost of Construction Coverage. Instead, we will pay a proportion of such loss, meaning the proportion that

the covered direct physical damage bears to the total direct physical damage. Paragraph (7) of this coverage provides an example of this procedure.

However, if the covered direct physical damage alone would have resulted in a requirement to comply with the ordinance or law, then we will pay the full amount of the loss otherwise payable under the terms of Coverages for Loss to the Undamaged Portion of the Building, Demolition Cost Coverage or Increased Cost of Construction Coverage under this Additional Coverage.

(3) We will not pay under this Additional Coverage for:

- (a) Enforcement of or compliance with any ordinance or law which requires the demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot; or
- (b) The costs associated with the enforcement of or compliance with any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungi", wet rot or dry rot.

(4) Coverage

(a) Coverage for Loss to the Undamaged Portion of the Building

With respect to the building that has sustained covered direct physical damage, we will pay under this Additional Coverage for the loss in value of the undamaged portion of the building as a consequence of a requirement to comply with an ordinance or law that requires demolition of undamaged parts of the same building. Coverage for Loss to the Undamaged Portion of the Building is included within the Limit of Insurance shown in the

Declarations as applicable to the covered building. Coverage for Loss to the Undamaged Portion of the Building does not increase the Limit of Insurance.

(b) Demolition Cost Coverage

With respect to the building that has sustained covered direct physical damage, we will pay the cost to demolish and clear the site of the undamaged parts of the same building, as a consequence of a requirement to comply with an ordinance or law that requires demolition of such undamaged property.

SECTION I - PROPERTY, E. Property Loss Conditions, 5. Loss Payment, paragraph d. does not apply to Demolition Cost Coverage.

(c) Increased Cost of Construction

With respect to the building that has sustained covered direct physical damage, we will pay the increased cost to:

- (i) Repair or reconstruct damaged portions of that building; and/or
- (ii) Reconstruct or remodel undamaged portions of that building, whether or not demolition is required;

when the increased cost is a consequence of a requirement to comply with the minimum standards of the ordinance or law.

However:

- (i) This coverage applies only if the restored or remodeled property is intended for similar occupancy as the current property, unless such occupancy is not permitted by zoning or land use ordinance or law.
- (ii) We will not pay for the increased cost of construction if the building is not repaired, reconstructed or remodeled.

SECTION I - PROPERTY, E. Property Loss Conditions, 5. Loss Payment, paragraph d. does not apply to the Increased Cost of Construction Coverage.

(5) Loss Payment

(a) Loss Payment provisions (b), (c), (d) and (e) below are subject to the apportionment procedure set forth in above **Application of Coverages**, paragraph (2)(c).

(b) When there is a loss in value of an undamaged portion of the building to which Coverage for Loss to the Undamaged Portion of the Building applies, the loss payment for that building, including damaged and undamaged portions, will be determined as follows:

(i) If the property is repaired or replaced on the same or another premise, we will not pay more than the lesser of:

- 1) The amount you actually spend to repair, rebuild or reconstruct the building, but not for more than the amount it would cost to restore the building on the same premises and to the same height, floor area, style and comparable quality of the original property insured; or
- 2) The Limit of Insurance shown in the Declarations as applicable to the covered building.

(ii) If the property is not repaired or replaced. We will not pay more than the lesser of:

- 1) The actual cash value of the building at the time of loss; or
- 2) The Limit of Insurance shown in the Declarations as applicable to the covered building.

(c) The most we will pay for the total of all covered losses for Demolition Cost Coverage and Increased Cost of Construction is the Limit of Insurance shown in paragraph (d) below. Subject to this combined Limit of Insurance, the following loss payment provisions apply:

(i) For Demolition Cost Coverage, we will not pay for more than the amount

you actually spend to demolish and clear the site of the described premises.

(ii) Loss payment under Increased Cost of Construction Coverage will be determined as follows:

1) We will not pay for the increased cost of construction until the property is actually repaired or replaced at the same or another premises; and

2) Unless the repairs or replacement is made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

(iii) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction Coverage is the lesser of:

- 1) The increased cost of construction at the same premises; or
- 2) The Limit of Insurance described in paragraph (d) below.

(iv) If the ordinance or law requires relocation to another premise, the most we will pay for the increased cost of construction is the lesser of:

- 1) The increased cost of construction at the new premises; or
- 2) The Limit of Insurance described in paragraph (d) below.

(d) The most we will pay for the total of all covered losses for Demolition Cost and Increased Cost of Construction for each building described in the Declarations is \$5,000 or the amount shown in the Additional Property Schedule.

If a damaged building(s) is covered under a Blanket Limit of Insurance and the Blanket Limit of Insurance applies to more than one building or item of property, then the most we will under this Additional Coverage, for each building, is \$5,000, or the amount shown in the Additional Property Coverage Schedule.

- (6) Under this coverage, we will not pay for loss due to any ordinance or law that:

- (a) You were required to comply with before the loss, even if the building was undamaged; and
- (b) You failed to comply with.

- (7) Example of Proportionate Loss Payment for Ordinance or Law Coverage losses (procedures as set forth in paragraph (2)(c) of this Additional Coverage).

Assume:

- Wind is a Covered Cause of Loss; "Flood" is an excluded Cause of Loss
- The building has value of \$200,000
- The total direct physical damage to the building: \$100,000;
- The ordinance or law in this jurisdiction is enforced when building damage equals or exceeds 50% of the building's value;
- Portion of direct physical damage that is covered (caused by wind): \$30,000;
- Portion of direct physical damage that is not covered (caused by "flood"): \$70,000; and
- Loss under Increased Cost of Construction: \$60,000

Step 1: Determine the proportion that the covered direct physical damage bears to the total direct physical damage.

$\$30,000 \text{ divided by } \$100,000 = .30$

Step 2: Apply that portion to the Ordinance or Law loss.

$\$60,000 \times .30 = \$18,000$

In this example, the most we will pay under this Additional Coverage for the Increased Cost of

Construction loss is \$18,000, subject to the applicable Limit of Insurance and any other applicable provisions.

Note: The same procedure applies to losses under Loss to the Undamaged Portion of the Building and Demolition Cost of this Additional Coverage.

m. Business Income from Dependent Properties

When Business Income Coverage is provided under this Coverage Form:

- (1) We will pay for the actual loss of Business Income you sustain due to direct physical loss or damage at the premises of a "dependent property" caused by or resulting from any Covered Cause of Loss.

However, this Additional Coverage does not apply when the only loss at the premises of a "dependent property" is loss or damage to "electronic data", including destruction or corruption of "electronic data". If the "dependent property" sustains loss or damage to "electronic data" and other property, coverage under this Additional Coverage will not continue once the other property is repaired, rebuilt or replaced.

- (2) The most we will pay under this Additional Coverage is \$5,000 per occurrence, regardless of the number of "dependent properties" affected.
- (3) We will reduce the amount of your Business Income loss, other than Extra Expense, to the extent you can resume "operations", in whole or in part, by using any other available:
- (a) Source of materials; or
 - (b) Outlet for your products.
- (4) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.
- (5) The coverage period for Business Income under this Additional Coverage:

- (a) Begins 72 hours after the time of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the premises of the "dependent property"; and

(b) Ends on the date when the property at the premises of the "dependent property" should be repaired, rebuilt or replaced (to the extent necessary to resume "operations") with reasonable speed and similar quality or 12 months immediately following the date of direct physical loss or damage, whichever is shorter.

(6) The Business Income coverage period, as stated in paragraph (4) above, does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:

(a) Regulates the construction, use or repair, or requires the tearing down of any property; or

(b) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this Coverage Form will not reduce the Business Income coverage period.

(7) The definition of Business Income contained in the Business Income Additional Coverage also applies to this Business Income from Dependent Properties Additional Coverage.

n. Glass Expenses

When glass is damaged from a Covered Cause of Loss we will pay for your expenses incurred to:

(1) Put up temporary plates or board up openings if repair or replacement of damaged glass is delayed;

(2) Replace lettering, artwork, sensors or other items permanently affixed to, or a part of, the damaged glass; and

(3) Remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

o. Fire Protection Equipment Recharge

(1) We will pay:

(a) The cost of recharging or replacing, whichever is less, your fire extinguishers and fire extinguishing systems

(including hydrostatic testing if needed) if they are discharged on or within 1,000 feet of the described premises; and

(b) For loss or damage to Covered Property if such loss or damage is the result of an accidental discharge of chemicals from a fire extinguisher or a fire extinguishing system.

(2) No coverage will apply if the fire extinguishing system is discharged during installation or testing.

(3) The most we will pay under this Additional Coverage is \$25,000 in any one occurrence. The deductible does not apply to these expenses.

p. Employee Theft including ERISA Compliance

(1) We will pay for loss or damage to "money", "securities" and "other property" resulting directly from "theft" committed by an "employee", clergy, or any non-compensated person whether identified or not, acting alone or in collusion with other persons.

For the purposes of this Additional Coverage, "theft" shall also include "forgery".

(2) This Additional Coverage terminates as to any "employee" as soon as:

(a) You; or

(b) Any of your partners, "members", "managers", officers, directors or trustees not in collusion with the "employee";

"Discovered" the "theft" or any other dishonest act committed by the "employee" whether before or after becoming employed by you.

(3) Under this Additional Coverage, all loss:

(a) Caused by one or more persons; or

(b) Involving a single act or series of related acts;

is considered one occurrence.

(4) We will pay only for loss you sustain through acts committed or events occurring anytime which is "discovered" by you:

(a) During the policy period; or



- (b) No later than 1 year from the date of termination or cancellation of this insurance. However this extended period to "discover" loss terminates immediately upon the effective date of any other insurance obtained by you, whether from us or another insurer, replacing in whole or in part the coverage afforded under this Additional Coverage, whether or not such other insurance provides coverage for loss sustained prior to its effective date.
- (5) You may extend this coverage to apply to loss caused by any "employee" while temporarily outside the Coverage Territory for a period of not more than 90 days.
- (6) The most we will pay for all loss resulting directly from an occurrence is \$10,000 or the Limit of Insurance shown in the Additional Property Coverage Schedule. Regardless of the number of years this policy remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year.
- (7) Special Employee Theft Exclusions**
We will not pay for:
- (a) Loss resulting from "theft" or any other dishonest act committed by:
- (i) You; or
 - (ii) Any of your partners or "members";
- Whether acting alone or in collusion with other persons.
- (b) Loss caused by an "employee" if the "employee" has also committed "theft" or any other dishonest act prior to the effective date of this policy and you or any of your partners, "managers", officers, directors or trustees, not in collusion with the "employee", learned of that "theft" or dishonest act prior to the policy period shown in the Declarations.
- (c) Loss resulting from "theft" or any other dishonest act committed by any of your "employees", "managers", directors, trustees or authorized representatives:
- (i) Whether acting alone or in collusion with other persons; or
 - (ii) While performing services for you or others;
- Except when covered under this Additional Coverage.
- (d) Loss that is an indirect result of an occurrence covered by this Additional Coverage, including, but not limited to, loss resulting from:
- (i) Your inability to realize income that you would have realized had there been no loss of or damage to "money", "securities" or "other property";
 - (ii) Payment of damages of any type for which you are legally liable;
 - (iii) Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this Additional Coverage.
- (e) Fees, costs and expenses incurred by you which are related to any legal action.
- (f) Loss or that part of any loss, the proof of which as to its existence or amount is dependent upon:
- (i) An inventory computation; or
 - (ii) A profit and loss computation.
- However, where you establish wholly apart from such computations that you have sustained a loss, then you may offer your inventory records and actual physical count of inventory in support of the amount of loss claimed.
- (g) Loss resulting from trading, whether in your name or in a genuine or fictitious account.
- (h) Loss resulting from fraudulent or dishonest signing, issuing, canceling or failing to cancel, a warehouse receipt or any papers connected with it.
- (i) Loss resulting from:
- (i) The unauthorized disclosure of your

confidential information including, but not limited to, patents, trade secrets, processing methods or customer lists; or

- (ii) The unauthorized use or disclosure of confidential information of another person or entity which is held by you including, but not limited to, financial information, personal information, credit card information or similar non public information.

(8) Welfare and Pension Plan ERISA Compliance

- (a) The "employee benefit plan" (hereafter referred to as Plan) is included as an Insured under this Additional Coverage.
- (b) If any Plan is insured jointly with any other entity under this Additional Coverage, you or the Plan Administrator must select a Limit of Insurance for this Additional Coverage that is sufficient to provide a Limit of Insurance for each Plan that is at least equal to that required if each Plan were separately insured.
- (c) With respect to loss sustained or "discovered" by any such Plan, paragraph (1) above, of this Additional Coverage is replaced by the following:
 - (1) We will pay for loss of or damage to "funds" and "other property" resulting directly from fraudulent or dishonest acts committed by an "employee", whether identified or not, acting alone or in collusion with other persons.
- (d) If the first Named Insured is an entity other than a Plan, any payment we make for loss sustained by any Plan will be made to the Plan sustaining the loss.
- (e) If two or more Plans are insured under this Additional Coverage, any payment we make for loss:
 - (i) Sustained by two or more Plans; or
 - (ii) Of commingled "funds" or "other property" of two or more Plans;

Resulting from an occurrence, will be made to each Plan sustaining loss in the proportion that the Limit of Insurance required for each Plan bears to the total Limit of Insurance of all Plans sustaining loss.

- (f) The deductible does not apply to this Additional Coverage.

q. Rewards - Arson, Theft and Vandalism

- (1) We will reimburse you for payment of any reward offered on your behalf and for information that leads to the arrest and conviction of the person or persons responsible for:
 - (a) Arson;
 - (b) "Theft" or
 - (c) Vandalismto Covered Property.
- (2) The arrest or conviction must involve a covered loss caused by arson, "theft" or vandalism.
- (3) The most we will pay under this Additional Coverage is \$10,000 unless a higher Limit of Insurance is shown in the Additional Property Coverage Schedule. The amount we pay is not increased by the number of persons involved in providing the information.
- (4) The amount payable under this Additional Coverage is additional insurance.
- (5) The deductible does not apply to this Additional Coverage.

r. Computer Equipment

- (1) We will pay for direct physical loss of or damage to the following
 - ✓ Covered Property which is your property or property in your care, custody or control while at or away from the described premises when loss or damage is caused by or resulting from a Covered Cause of Loss:
 - (a) "Computer equipment"; and
 - (b) Programming documentation and instruction manuals.
- (2) We will pay for the actual loss of Business Income you sustain as described in the Business Income Additional Coverage and we will pay for any necessary Extra Expense you incur during the "period of restoration"

as described in the Extra Expense Additional Coverage.

- (3) In the event of a loss of or damage to "Computer equipment" by a Covered Cause of Loss, we will pay your costs to modify or replace undamaged "hardware" or "software" when it:

- (a) Was dependent on the damaged "hardware" or "software" prior to the covered loss; and
- (b) Is not compatible with the "hardware" or "software" that is replacing the property that was involved in the covered loss.

We will only pay for your costs to modify or replace undamaged "hardware" or "software" at a premises described in the Declarations.

The most we will pay for your costs covered in any one occurrence is \$10,000.

- (4) We will not pay for any loss of or damage to the following property:

- (a) Property you rent, loan or lease to others while it is away from the described premises;
- (b) Property you hold for sale, distribute or manufacture except as provided in **SECTION I - PROPERTY, A. Coverage, 1. Covered Property**, paragraph b.; or
- (c) "Software" that cannot be duplicated or replaced with similar property of equal quality and/or substantially similar functionality.

- (5) If we provide Building coverage only, we will only pay for loss to "computer equipment" that service building operations at the described premises and are located at the described premises.

- (6) The most we will pay for any loss or damage to property described in paragraphs (1) and (2) above, is \$35,000 unless a higher Limit of Insurance is shown in the Additional Property Coverage Schedule for Computer Equipment. The most we will pay for Extra Expense is \$5,000 unless a higher Limit of Insurance is shown in the Additional Property Coverage Schedule for Extra Expense.

- (7) The following in **SECTION I - PROPERTY, B. Exclusions**, paragraph 1. do not apply to this Additional Coverage:

(a) **b. Earth Movement**; and

(b) **g. Water**.

- (8) **Special Computer Equipment Exclusions**

We will not pay for loss or damage to portable electronic devices when caused by, resulting from, or arising out of "theft" or unexplained loss when the property is checked baggage with a carrier for transit. Portable electronic devices includes laptops, tablets, e-readers, smartphones or other lightweight, hand-held or wearable devices capable of storing, retrieving and processing data.

s. Money and Securities

- (1) We will pay for loss of "money" and "securities":

- (a) Inside a building at the described premises or "financial institution" resulting directly from "theft" committed by a person present inside a building at the described premises or "financial institution";
- (b) Inside a building at the described premises or "financial institution" resulting directly from disappearance or destruction; or
- (c) Outside of a building at or away from the described premises in the care and custody of a "messenger" or an armored motor vehicle company resulting directly from "theft", disappearance or destruction.

- (2) For the purposes of this Additional Coverage, all loss:

(a) Caused by one or more persons; or

(b) Involving a single act or series of related acts;

is considered one occurrence.

- (3) You must keep records of all "money" and "securities" so we can verify the amount of any one loss or damage.

- (4) The amount payable under this Additional Coverage is additional insurance.

(5) The most we will pay for loss in any one occurrence is:

(a) \$10,000 or the amount shown in the Additional Property Coverage Schedule while:

(i) Inside a building at the described premises; or

(ii) Within a "financial institution" in the Coverage Territory; and

(b) \$5,000 or the amount shown in the Additional Property Coverage Schedule while outside of a building at the described premises or when away from the described premises in the Coverage Territory.

(6) Special Money and Securities Exclusions

We will not pay for loss:

(a) Resulting from accounting or arithmetic errors or omissions;

(b) Resulting from giving or surrendering of property in any exchange or purchase;

(c) Of property contained in any money-operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device; or

(d) Loss or damage to "money" and "securities" following and directly related to the use of any computer to fraudulently cause a transfer of that property.

t. Tenant Signs (Tenants only)

(1) This Additional Coverage is available only when the Named Insured is a tenant and a Limit of Insurance is shown in the Declarations Page for Business Personal Property.

We will pay for direct physical loss of or damage to all signs:

(a) Owned by you; or

(b) Owned by others but in your care, custody or control;

when loss or damage is caused by or resulting from a Covered Cause of Loss.

(2) **SECTION I - PROPERTY, A. Coverage, 3. Covered Causes of Loss** does not apply to this Additional Coverage and **SECTION I -**

PROPERTY, B. Exclusions, paragraph 1. does not apply to this Additional Coverage except for the following:

(a) **c. Government Action;**

(b) **d. Nuclear Hazard;** and

(c) **f. War and Military Action.**

(3) We will not pay for loss or damage caused by or resulting from:

(a) Wear and tear;

(b) Hidden or latent defect;

(c) Rust;

(d) Corrosion; or

(e) Mechanical Breakdown, except as provided for in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, u. Equipment Breakdown.**

(4) The most we will pay for loss or damage in any one occurrence is \$5,000 regardless of the number of locations or buildings involved.

u. Equipment Breakdown

(1) We will pay for direct physical damage to Covered Property that is the direct result of an "accident" or "electronic circuitry impairment". We will consider "electronic circuitry impairment" to be physical damage to "covered equipment".

(2) The following coverages also apply to the direct result of an "accident" or "electronic circuitry impairment". However, with respect to coverage **A.5.u.(2)(h) Utility Services - Equipment Breakdown (Accident)** and **A.5.m. Business Income from Dependent Properties** provided in this coverage form, coverage will apply only to the direct result of an "accident" and will not apply to the direct result of an "electronic circuitry impairment". These coverages do not provide additional amounts of insurance.

(a) Data Restoration

We will pay for your reasonable and necessary cost to research, replace and restore lost "data".

The most we will pay for loss or expense under this coverage, including actual loss of Business Income you sustain and

necessary Extra Expense you incur is \$50,000.

(b) Expediting Expenses

With respect to your damaged Covered Property, we will pay, up to \$50,000, the reasonable extra cost to:

- (i) Make temporary repairs; and
- (ii) Expedite permanent repairs or permanent replacement.

(c) Fungi, Wet Rot, or Dry Rot

- (i) We will pay the additional cost to repair or replace Covered Property because of contamination by "fungi", wet rot or dry rot. This includes the additional costs to clean up or dispose of such property. This does not include spoilage of personal property that is "perishable goods" to the extent that such spoilage is covered under Spoilage coverage.
- (ii) As used in this coverage, additional costs mean those beyond what would have been payable under this Equipment Breakdown Coverage had no "fungi", wet rot or dry rot been involved.
- (iii) We will also pay the cost of testing performed after repair or replacement of the damaged Covered Property is completed only to the extent that there is reason to believe there is the presence of "fungi", wet rot or dry rot.
- (iv) This coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.
- (v) The most we will pay in any "one equipment breakdown" for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, if shown as covered, is \$15,000 even if the "fungi", wet rot or dry rot continues to be present or active or recurs in a later policy period.

(d) Hazardous Substances

We will pay for the additional cost to repair or replace Covered Property because of a contamination by a "hazardous substance".

This includes the additional costs to clean up or dispose of such property. This does not include contamination of "perishable goods" by refrigerant, including but not limited to ammonia, which is addressed in **(g) Spoilage** below. Additional costs mean those beyond what would have been payable had no "hazardous substance" been involved. The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain, and necessary Extra Expense you incur is \$50,000.

(e) Personal Property Off Premises Equipment Breakdown

- (i) Any direct physical damage for personal property off premises provided under Coverage Extension **b. Personal Property Off Premises**, also applies to the direct result of an "accident" or "electronic circuitry impairment".
- (ii) We will also pay for your reasonable and necessary cost to research, replace and restore lost "electronic data" contained within "covered equipment" when due to covered loss or damage as described in (i) above. This amount may not exceed the limit applicable to Data Restoration coverage.
- (iii) The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur and Data Restoration as described in (ii) above is \$50,000.

(f) Public Relations

(i) This coverage only applies if you have sustained an actual loss of Business Income.

(ii) We will pay for your reasonable costs for professional services to create and disseminate communications, when the need for such communications arises directly from the interruption of your business. This communication must be directed to one or more of the following:

- 1) The media;
- 2) The public; or
- 3) Your customers, clients or members.

(iii) Such costs must be incurred during the "period of restoration" or up to 30 days after the "period of restoration" has ended.

(iv) The most we will pay for loss or expense under this coverage is \$5,000.

(g) Spoilage

(i) We will pay for:

- 1) Physical damage to your "perishable goods" due to spoilage.
- 2) Physical damage to your "perishable goods" due to contamination from the release of refrigerant, including but not limited to ammonia.
- 3) Any necessary expenses you incur to reduce the amount of loss under this coverage. We will pay for such expenses to the extent that they do not exceed the amount of loss that otherwise would have been payable under this coverage.

(ii) If you are unable to replace "perishable goods" before its anticipated sale, the amount of our payment will be determined on the basis of the sales price of the "perishable goods" at the time of the

"accident" or "electronic circuitry impairment", less discounts and expenses you otherwise would have had. Otherwise our payment will be determined in accordance with the Loss Payment Condition.

(iii) The most we will pay for loss or damage under this coverage is \$50,000.

(h) Utility Services - Equipment Breakdown (Accident)

(i) Any insurance provided for Business Income, Extra Expense, Data Restoration or Spoilage is extended to apply to your loss, damage or expense caused by a failure or disruption of service. The failure or disruption of service must be caused by an "accident" to equipment, including overhead transmission lines, that is owned by a utility, landlord, a landlord's utility or other supplier who provides you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, Internet access, telecommunications services, "cloud computing services", wide area networks or data transmission. The equipment must meet the definition of "covered equipment" except that it is not Covered Property.

(ii) "Cloud computing services" must be provided by a professional provider with whom you have a contract.

(iii) With respect to the Data Restoration portion of this Service Interruption coverage, coverage will also apply to "data" stored in the equipment of a provider of "cloud computing services".

(iv) Any insurance provided for Business Income or Data Restoration will not apply



under this Service Interruption coverage unless the failure or disruption of service exceeds 24 hours immediately following the "accident". If the interruption exceeds 24 hours, coverage will begin at the time of the disruption, and the applicable deductible will apply.

- (v) The most we will pay in any "one equipment breakdown" for loss, damage or expense under this coverage is the applicable limit for Business Income, Extra Expense, Data Restoration or Spoilage.

(3) Conditions

(a) Suspension

When any "covered equipment" is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an "accident" or "electronic circuitry impairment" to that "covered equipment". We can do this by mailing or delivering a written notice of suspension to:

- (i) Your address as shown in the Declarations; or
- (ii) The address where the "covered equipment" is located.

Once suspended in this way, your insurance can be reinstated only by an endorsement for that "covered equipment". If we suspend your insurance, you will get a pro rata refund of premium for that "covered equipment". But the suspension will be effective even if we have not yet made or offered a refund.

(b) Jurisdictional Inspections

If any property that is "covered equipment" under this Additional Coverage requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

(c) Environmental, Safety and Efficiency Improvements

If "covered equipment" requires replacement due to an "accident" or "electronic circuitry impairment", we will pay your additional cost to replace with equipment that is better for the environment, safer for people or more energy or water efficient than the equipment being replaced. However, we will not pay to increase the size or capacity of the equipment and we will not pay more than 150% of what the cost would have been to replace with like kind and quality. This provision does not apply to the replacement of component parts or to any property to which Actual Cash Value applies and does not increase any of the applicable limits.

(4) Special Equipment Breakdown Exclusions

- (a) We will not pay for loss, damage or expense caused by or resulting from a hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel, or an electrical insulation breakdown test of any type of electrical equipment.

- (b) With respect to Business Income, Extra Expense and Utility Services coverages, we will also not pay for:

- (i) Loss caused by your failure to use due diligence and dispatch, and all reasonable means to resume business; or
- (ii) Any increase in loss resulting from an agreement between you and your customer or supplier.

- (c) Except as provided under u.2.(c) "Fungi", Wet Rot or Dry Rot coverage we will not pay for loss, damage or expense caused directly or indirectly by the following, whether or not caused by or resulting from an "accident" or "electronic circuitry impairment": Any "fungi," wet rot or dry rot, including any presence, growth, proliferation, spread or any activity of "fungi," wet rot or dry rot. This includes, but is not

limited to, costs arising from clean up, removal, or abatement of such "fungi," wet rot or dry rot. However, this exclusion does not apply to spoilage of personal property that is "perishable goods," to the extent that such spoilage is covered under Spoilage coverage.

(d) This Additional Coverage - Equipment Breakdown does not apply to an "accident" or "electronic circuitry impairment" caused by or resulting from:

(i) Fire (including fire resulting from an "accident" or "electronic circuitry impairment"), or water or other means used to extinguish a fire;

(ii) Explosion of gas or unconsumed fuel within the furnace of any boiler or fired vessel or within the passages from that furnace to the atmosphere;

(iii) Any other explosion, except as specifically covered under this Additional Coverage;

(iv) Vandalism;

(v) Lightning; smoke; aircraft or vehicles; riot or civil commotion; sprinkler leakage; elevator collision;

(vi) Windstorm or hail; However, this exclusion does not apply when:

1) "Covered equipment" located within a building or structure suffers an "accident" or "electronic circuitry impairment" that results from wind-blown rain, snow, sand or dust; and

2) The building or structure did not first sustain wind or hail damage to its roof or walls through which the rain, snow, sand or dust entered.

(vii) Breakage of glass; falling objects; weight of snow, ice or sleet; freezing (caused by cold weather); collapse or molten material;

(viii) "Flood", surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not; mudslide or mudflow; or water that backs up or overflows from a sewer, drain or sump. However, if electrical "covered equipment" requires drying out because of the above, we will pay for the direct expenses of such drying out subject to the applicable Limit of Insurance and deductible for Building or Business Personal Property, whichever applies.

(ix) Any earth movement, including but not limited to earthquake, subsidence, sinkhole collapse, landslide, earth sinking, tsunami or volcanic action.

(e) Special Equipment Breakdown Exclusions (5)(d)(v), (5)(d)(vi) and (5)(d)(vii) shall not apply if:

(i) The excluded cause of loss occurs away from any covered location and causes an electrical surge or other electrical disturbance;

(ii) Such surge or disturbance is transmitted through utility service transmission lines to the covered location and results in an "accident" or "electronic circuitry impairment"; and

(iii) The loss, damage or expense caused by such surge or disturbance is not covered elsewhere under the policy.

(f) We will not pay under this Additional Coverage for any loss or damage to animals.

The most we will pay for loss, damage or expense arising from any "one equipment breakdown" is the applicable Limit of Insurance shown in the Declarations. This Additional Coverage does not provide an additional amount of insurance.

v. Commercial Tools and Small Equipment

- (1) This Additional Coverage is available only when a Limit of Insurance is shown in the Declarations for Business Personal Property.
- (2) We will pay for direct physical loss of or damage caused by or resulting from a Covered Cause of Loss to commercial tools and small equipment, including their:
 - (a) Accessories, whether attached or not attached; and
 - (b) Spare parts that are specifically designed and intended for use in the maintenance and operation of property covered under this Additional Coverage;

That is:

- (c) Your property;
 - (d) The property of others in your care, custody or control; or
 - (e) The property of your "employees".
- Damage to the property of your "employees" is limited to while on the described premises.

Commercial Tools and Small Equipment does not include communication devices and diagnostic equipment unless otherwise covered in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, r. Computer Equipment.**

- (3) This coverage only applies to any one tool or piece of small equipment with a replacement cost value of \$2,500 or less, unless listed on a schedule included with this policy.
- (4) The most we will pay for any loss under this Additional Coverage in any one occurrence is \$5,000 unless a higher Limit of Insurance is shown in the Additional Property Coverage Schedule, but not more than \$2,500 for any one tool, tool box or piece of small equipment.
- (5) In addition to items listed within **SECTION I - PROPERTY, A. Coverage, 2. Property Not Covered**, we will not pay for any loss to the following property:
 - (a) Watercraft or watercraft parts and equipment;

- (b) Commercial tools and small equipment that are permanently mounted to a vehicle, including trailers;

- (c) Tires or tire tubes, attached or unattached, for use with commercial tools and small equipment, unless the loss or damage is caused by "theft", malicious mischief, or any of the "specified causes of loss"; or

- (d) Any property while underground, airborne or waterborne.

- (6) The following **SECTION I - PROPERTY, B. Exclusions**, in paragraph 1. do not apply to this Additional Coverage:

- (a) b. Earth Movement;

- (b) g. Water.

- (7) **Special Commercial Tools and Small Equipment Exclusion**

We will not pay for any loss caused by or resulting from any repair, adjusting, servicing, testing or maintenance process unless fire or explosion ensues, then only for the loss caused by such ensuing fire or explosion.

w. Installation

- (1) This Additional Coverage is available only when a Limit of Insurance is shown in the Declarations for Business Personal Property.

- (2) We will pay for direct physical loss of or damage to property sold under an installation agreement where your insurable interest continues until the property is accepted by the purchaser for whom the project is to be performed. Coverage applies under this Additional Coverage when the loss or damage is caused by or resulting from any Covered Cause of Loss.

- (3) The property under which this insurance applies includes:

- (a) Materials, supplies, equipment, machinery, fixtures owned by you or in your care, custody or control, and which are to be installed by you or at your direction; and

- (b) Temporary structures built or assembled on-site, including cribbing, scaffolding and construction forms.

This property is covered while:

- (c) At any jobsite you do not own, lease or operate;
 - (d) Awaiting and during installation, or awaiting acceptance by the purchaser;
 - (e) "In transit"; or
 - (f) At a temporary storage location.
- (4) Coverage provided under this Additional Coverage will end when one of the following first occurs:
- (a) This policy expires or is cancelled;
 - (b) The property covered under this Additional Coverage is accepted by the purchaser;
 - (c) Your interest in the property covered under this Additional Coverage ceases;
 - (d) You abandon the project to be performed by you for the purchaser, with no intention to complete it; or
 - (e) 90 days after the project to be performed by you for the purchaser is completed, unless we specify a different date in writing.
- (5) In addition to **SECTION I - PROPERTY, A. Coverage, 2. Property Not Covered**, the following property is not covered with respect to this Additional Coverage:
- (a) An existing building or structure to which an addition, alteration, improvement or repair is being made;
 - (b) Property stored at a permanent premises that you own;
 - (c) A plan, blueprint, design or specification;
 - (d) Trees, grass, sod, shrubbery or plants; and
 - (e) Machinery, tools, equipment, supplies or similar property that does not become a permanent part of the project. This includes contractor's equipment and other tools belonging to a contractor or sub-contractor.

(6) Special Installation Exclusions

We will not pay for any loss caused by or resulting from:

- (a) The cost to make good or replace faulty or defective materials or workmanship;
 - (b) Testing. However, if testing results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion;
 - (c) A fault, defect, deficiency, error or omission in a plan, blueprint, design or specification;
 - (d) The weight of a load when it exceeds the designed capacity of any property covered under this Additional Coverage to lift, move or support the load from any position; or
 - (e) Collision, upset or overturn of any property covered under this Additional Coverage to the extent of any loss of or damage to the tires or inner tubes of such property. But we will pay for the loss of or damage to the tires or inner tubes if the same accident causes other covered loss to the same property covered under this Additional Coverage.
- (7) The following in **SECTION I - PROPERTY, B. Exclusions**, paragraph 1. do not apply to this Additional Coverage:
- (a) b. Earth Movement; and
 - (b) g. Water.
- (8) The most we will pay for loss of or damage to property covered under this Additional Coverage in any one occurrence is \$5,000, regardless if the property is located at a jobsite, while "in transit", or at a temporary storage location.

This Additional Coverage does not increase **SECTION I - PROPERTY, C. Limits of Insurance**.

x. Fine Arts

- (1) We will pay for direct physical loss to "fine arts" which are your property or the property of others in your care, custody or control while on the described premises. We also cover your "fine arts" while temporarily on display or exhibit away from the described premises or while "in transit" between the described premises and a location where the

"fine arts" will be temporarily on display or exhibit.

- (2) The following of **SECTION I - PROPERTY, B. Exclusions**, paragraph 1. do not apply to this Additional Coverage:

- (a) **b. Earth Movement**; and
- (b) **g. Water**

- (3) The most we will pay for any loss under this Additional Coverage is \$10,000 per occurrence regardless of the number of locations or buildings involved.

(4) **Special Fine Arts Exclusion**

We will not pay for any loss caused by or resulting from:

- (a) Breakage of statuary, glassware, bric-a-brac, marble, porcelain and similar fragile property. But we will pay if the loss or damage is caused directly by a "specified cause of loss", earthquake or "flood"; and
- (b) Any repairing, restoration or retouching of the "fine arts".

y. Sales Representative Samples

- (1) We will pay for direct physical loss or damage by a Covered Cause of Loss to samples of your "stock" in trade (including containers) while:

- (a) In the custody of your sales representative, agent or any "employee" who travels with sales samples;
- (b) In your custody while acting as a sales representative; or
- (c) "In transit" between the described premises and your sales representatives.

- (2) The following of **SECTION I - PROPERTY, B. Exclusions**, paragraph 1. do not apply to this Additional Coverage:

- (a) **b. Earth Movement**; and
- (b) **g. Water**

- (3) The most we will pay for any loss or damage under this Additional Coverage is \$5,000 unless a higher Limit of Insurance is shown in the Additional Property Coverage Schedule.

- (4) We will not pay for loss to the following property:

- (a) Property which has been sold;
- (b) Jewelry, precious or semiprecious stones, gold, silver, platinum or other precious metals or alloys;
- (c) Fur, fur garments or garments trimmed with fur; or
- (d) Any property while waterborne.

z. Leasehold Interest (Tenants Only)

- (1) If your lease is cancelled due to direct physical damage to property at the described premises caused by or resulting from a Covered Cause of Loss, we will pay the net loss you sustain due to increased rent under a replacement lease.

- (2) The most we will pay for loss because of the cancellation of any lease or leases due to the same covered cause of loss is the lesser of:

- (a) If your lease is cancelled and either:

- (i) Your landlord allows you to continue to use your premises under a new lease not to exceed the prevailing lease rate, or

- (ii) You relocate to other permanent premises and enter into a new lease.

For the duration of the lease in effect at the time of the loss, we will pay the increase in rent between what you were paying at the time of loss and the rent you will be required to pay for equivalent premises under the replacement lease;

- (b) \$10,000; or

- (c) Nothing if there is not a written or legally binding lease.

- (3) The following applies to paragraph (2), subparagraphs (a)(i) and (a)(ii) above:

- (a) If the lease in effect at the time of the loss contains a renewal option, the expiration date of the renewal option period will replace the expiration of the current lease.

- (b) If the lease has no end date (open-ended), we will pay the difference in rent for a period of no more than 24 months after the date of the direct physical damage to the property at the described premises.

- (4) The following applies to paragraph (2), subparagraphs (a) and (b) above:

- (a) \$10,000 will be the maximum amount payable regardless of the number of leases affected by the same Covered Cause of Loss.
- (b) Existence of a renewal option will not increase, or have any other effect on this Limit of Insurance.

(5) Special Leasehold Interest Exclusion

We will not pay for any loss or damage:

- (a) If the unit or suite rented or leased to you where direct damage occurs has been vacant more than 60 consecutive days before the loss or damage occurs, and you have not entered into an agreement to sublease the unit or suite.
- (b) Caused by your cancelling the lease, or
- (c) Caused by lessors' lease cancellation at the normal expiration date.

aa. Unauthorized Business Credit Card Use

- (1) We will pay for loss resulting from the "theft" or unauthorized use of Business Credit Cards issued to you or registered in your name.
- (2) We do not cover use of a Business Credit Card:
 - (a) By a person who has been entrusted with the card; or
 - (b) any of your "employees".
- (3) All loss:
 - (a) Caused by one or more persons; or
 - (b) Involving a single act or series of related acts;is considered one occurrence regardless of the number of individual unauthorized transactions.
- (4) If a suit is brought against you for liability, we will pay for reasonable legal expenses incurred in that defense under this Additional Coverage.
- (5) The most we will pay for any loss including legal expenses, under this

Additional Coverage is \$5,000 per occurrence.

bb. Utility Services

- (1) We will pay for loss of or damage to Covered Property caused by an interruption in service to the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to property not on the described premises that provides the services shown in paragraph (3) below.

The most we will pay for loss in any one occurrence under this Additional Coverage is \$10,000 at each described premises or the Limit of Insurance shown in the Additional Property Coverage Schedule.

- (2) We will pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur caused by the interruption of service at the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to property not on the described premises that provides the services shown in paragraph (3) below.

We will only pay for loss you sustain after the first 24 hours following the direct physical loss of or damage to the property described above.

The most we will pay for loss in any one occurrence under this Additional Coverage is \$5,000 at each described premises or the Limit of Insurance shown in the Additional Property Coverage Schedule.

(3) Services:

- (a) Water Supply Services, meaning the following types of property supplying water to the described premises:

- (i) Pumping stations; and
- (ii) Water mains.

- (b) Communication Supply Services, meaning the following types of property supplying communication services, including but not limited to telephone, radio, microwave, television services, Internet access or access to any electronic, cellular or satellite



network to the described premises, such as:

- (i) Communication transmission lines, including optic fiber transmission lines;
 - (ii) Coaxial cables; and
 - (iii) Microwave radio relays except satellites.
- (c) Power Supply Services, meaning the following types of property supplying electricity, steam or gas to the described premises:
- (i) Utility generating plants;
 - (ii) Switching stations;
 - (iii) Substations;
 - (iv) Transformers; and
 - (v) Transmission lines.
- (4) Services under this Additional Coverage do not include overhead transmission lines that deliver utility services to you. Overhead transmission lines include, but are not limited to:
- (a) Overhead transmission and distribution lines;
 - (b) Overhead transformers and similar equipment; and
 - (c) Supporting poles and towers.
- (5) As used in this additional coverage, the term transmission lines includes all lines which serve to transmit communication service or power, including lines which may be identified as distribution lines.
- (6) This coverage is not an additional amount of insurance.
- (7) Coverage under this Additional Coverage for loss or damage to Covered Property does not apply to loss or damage to "electronic data", including destruction or corruption of "electronic data".
- (8) The definitions of Business Income and Extra Expense contained in the Business Income and Extra Expense Additional Coverages also apply to this Utility Services Additional Coverage.

cc. Deferred Payments

- (1) We will pay for your interest in lost or damaged Business Personal Property sold by you under a conditional sale or

trust agreement or any installment or deferred payment plan after delivery to buyers. The loss or damage must be caused by a Covered Cause of Loss.

- (2) When a total loss to that property occurs, deferred payments are valued on the amount shown on your books as due from the buyer. When a partial loss to that property occurs and the buyer refuses to continue payment, forcing you to repossess, deferred payments are valued as follows:

(a) If the realized value of the repossessed property is greater than or equal to the amount shown on your books as due from the buyer, we will make no payment; but

(b) If the realized value of the repossessed property is less than the amount shown on your books as due from the buyer, we will pay the difference.

- (3) When loss occurs and the buyer continues to pay you, there will be no loss payment.

- (4) The most we will pay for loss under this Additional Coverage is \$5,000 per occurrence.

dd. Electronic Vandalism

- (1) **SECTION I - PROPERTY, A. Coverage, 2. Property Not Covered**, paragraph o. is deleted.

- (2) We cover direct physical loss of or damage to covered "computer equipment" at the described premises caused by "electronic vandalism".

- (3) The most we will pay in any one occurrence under this Additional Coverage is \$10,000. The most we pay for all covered losses under this Additional Coverage during each separate 12-month period of this policy is \$10,000.

(4) Special Electronic Vandalism Exclusions

We do not cover:

(a) Loss of proprietary use of any "electronic data" or "proprietary programs" that have been copied, scanned, or altered;

(b) Loss of or reduction in economic or market value of any "electronic

data" or "proprietary programs" that have been copied, scanned, or altered; and

- (c) "Theft" from your "electronic data" or "proprietary programs" of confidential information through the observation of the "electronic data" or "proprietary programs" by accessing covered "computer equipment" without any alteration or other physical loss of or damage to the records or programs. Confidential information includes, but is not limited to, customer information, processing methods, or trade secrets.

ee. Interruption of Computer Operations

This Additional Coverage is only available if Business Income is covered under this Coverage Form.

- (1) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a suspension of "operations" at the described premises caused by an interruption in computer operations due to destruction or corruption of "electronic data" occurring at or away from the described premises resulting from any Covered Cause of Loss.
- (2) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:
 - (a) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss include "electronic vandalism". But there is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.
 - (b) If the Businessowners Coverage Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage.
- (3) The most we will pay under this Additional Coverage - Interruption of Computer Operations for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved, is \$10,000 unless a higher Limit of Insurance is shown in the Declarations. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.
- (4) This Additional Coverage - Interruption of Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in paragraph (3) above has not been exhausted.
- (5) Coverage for Business Income does not apply when a "suspension" of "operations" is caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under paragraphs (1), (2), (3) and (4) of this Additional Coverage.
- (6) Coverage for Extra Expense does not apply when action is taken to avoid or minimize a "suspension" of "operations" caused by "electronic vandalism", except as provided under paragraphs (1), (2), (3) and (4) of this Additional Coverage.
- (7) This Additional Coverage - Interruption of Computer Operations does not apply when loss or damage to "electronic data" involves only "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

ff. Limited Coverage for Fungi, Wet Rot, or Dry Rot

- (1) The coverage described in paragraphs (2) and (6) below only applies when the "fungi", wet rot or dry rot is the result of any of the "specified causes of loss" other than fire or lightning that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.

This Additional Coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.

- (2) We will pay for loss or damage by "fungi", wet rot or dry rot. As used in this Limited Coverage, the term loss or damage means:

- (a) Direct physical loss of or damage to Covered Property caused by "fungi", wet rot or dry rot, including the cost of removal of the "fungi", wet rot or dry rot;
- (b) The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungi", wet rot or dry rot; and
- (c) The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungi", wet rot or dry rot is present.

- (3) The coverage described under this Limited Coverage is limited to \$50,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences caused by or resulting from any of the "specified causes of loss" (other than fire or lightning) which take place in a 12 month period (starting with the beginning of the present policy period). With respect to a particular occurrence of loss which results in "fungi", wet rot or dry rot, we will not pay more than the total of \$50,000 even if the "fungi", wet rot or dry rot continues to be present or active, or recurs, in a later policy period.

- (4) The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungi", wet rot or dry rot, and other loss or damage, we will not pay more for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by "fungi", wet rot or dry rot, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungi", wet rot or dry rot causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

- (5) The terms of this Limited Coverage do not increase or reduce the coverage provided in **SECTION I - PROPERTY, A. Coverage, 5 Additional Coverages, d. Collapse; and/or e. Water Damage, Other Liquids, Powder or Molten Material Damage.**

- (6) The following applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the "suspension" of "operations" satisfies all the terms and conditions of the applicable **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, f. Business Income and/or g. Extra Expense:**

- (a) If the loss which resulted in "fungi", wet rot or dry rot does not in itself necessitate a "suspension" of "operations", but such "suspension" is necessary due to loss or damage to property caused by "fungi", wet rot or dry rot, then our payment under **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, f. Business Income and/or g. Extra Expense** is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.

- (b) If a covered suspension of "operations" was caused by loss or damage other than "fungi", wet

rot or dry rot, but remediation of "fungi", wet rot, dry rot prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), but such coverage is limited to 30 days. The days need not be consecutive.

gg. Theft of Telephonic Services

- (1) We will pay amounts you are obligated to pay that result from the "theft" of your "telephonic services" when someone who is not an "employee" gains unauthorized access to your "telephonic services" used in your business operations.
- (2) The most we will pay under this Additional Coverage for acts of "theft" of "telephonic services", regardless of the number of "thefts" of "telephonic services" that you sustain in one policy year is \$25,000.

hh. Computer and Funds Transfer Fraud

- (1) We will pay for:
 - (a) Loss resulting directly from a fraudulent:
 - (i) Entry of "electronic data" or "computer program" into; or
 - (ii) Change of "electronic data" or "computer program" within; any "computer equipment" owned, leased or operated by you, provided the fraudulent entry or fraudulent change causes, with regard to (1)(a)(i) and (1)(a)(ii) in the above paragraph;
 - (iii) "Money", "securities" or "other property" to be transferred, paid or delivered; or
 - (iv) Your account at a "financial institution" to be debited or deleted.
 - (b) Loss resulting directly from a "fraudulent instruction" directing a "financial institution" to debit your "transfer account" and to transfer, pay or deliver "money" or "securities" from that account.
- (2) As used in (1)(a) above, fraudulent entry or fraudulent change of "electronic data" or "computer program" shall include such entry or

change made by an "employee" acting, in good faith, upon a "fraudulent instruction" received from a computer software contractor who has a written agreement with you to design, implement or service "computer programs" for "computer equipment" covered under this Insuring Agreement.

- (3) The most we will pay per occurrence under this Additional Coverage is \$5,000 unless a higher Limit of Insurance is shown in the Schedule of Amended Limits of Insurance.
- (4) Under this Additional Coverage all loss:
 - (a) Caused by one or more persons; or
 - (b) Involving a single act or series of acts:
 is considered one occurrence.

ii. Tenant Building Insurance - When Your Lease Requires You to Provide Insurance

- (1) This Additional Coverage is available only when the Named Insured is a tenant and a Limit of Insurance is shown in the Declarations Page for Business Personal Property.
- (2) We will pay for direct physical loss of or damage to a building on the described premises owned by your landlord and in your care, custody or control for which you have a written contractual responsibility to insure. The loss or damage must be the result of or caused by a Covered Cause of Loss.
- (3) Regardless of the number of described buildings affected, the most we will pay per insured location under this Additional Coverage is \$25,000 in any one occurrence.

jj. Tenant Business Personal Property Insurance - When Your Lease Requires You to Provide Insurance

- (1) This Additional Coverage is available only when the Named Insured is a tenant and a Limit of Insurance is shown in the Declarations Page for Business Personal Property.
- (2) Subject to **SECTION I - PROPERTY, E. Property Loss Conditions, 5. Loss Payment,** paragraph d., subparagraph (3)(b), we will pay for

direct physical loss of or damage to your landlord's personal property located inside of a building on the described premises and in your care, custody or control for which you have a written contractual responsibility to insure. The loss or damage must be the result of or caused by a Covered Cause of Loss.

- (3) Regardless of the number of buildings where the landlord's personal property is located, the most we will pay per insured location under this Additional Coverage in any one occurrence is \$25,000.

6. Coverage Extensions

Except as otherwise provided, the following extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 1,000 feet of the described premises:

a. Newly Acquired or Constructed Property

(1) Buildings

If your policy covers Buildings, you may extend the insurance provided under Building to apply to direct physical loss or damage when such loss or damage is caused by a Covered Cause of Loss to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at premises other than the one described, intended for:
 - (i) Similar use as the building described in the Declarations; or
 - (ii) Used as a warehouse.
- (c) The most we will pay for loss or damage under this Extension for Newly Acquired or Constructed Buildings is \$1,000,000 at each building.

(2) Business Personal Property

- (a) If your policy covers Business Personal Property, you may extend the insurance provided under Business Personal Property to apply to direct physical loss or damage when such loss or damage is caused by a Covered Cause of Loss to:

- (i) Business Personal Property, including such property that you newly acquire, at any location you acquire; or
- (ii) Business Personal Property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations.
- (iii) Business Personal Property that you newly acquire, located at the described premises.

(b) This Extension does not apply to:

- (i) Personal property of others that is temporarily in your possession in the course of installing or performing work on such property; or
- (ii) Personal property of others that is temporarily in your possession in the course of your manufacturing or wholesaling activities.
- (c) This insurance may not be used to increase your Business Personal Property Limit. It does not apply to personal property you acquire as part of your usual customary business dealings whether or not such acquisition was related to anticipated seasonal demands. Under the terms of this Coverage Form, such property is not considered newly acquired, but falls within the provisions for Business Personal Property.
- (d) The most we will pay for loss or damage under this Extension is \$500,000 at each premises.

(3) Business Income and Extra Expense

You may extend the insurance that applies to Business Income and Extra Expense to apply to property at any location you acquire. The most we will pay for loss or damage under this Extension is \$250,000 at each premise.

(4) Period of Coverage

With respect to insurance provided under this Coverage Extension for Newly Acquired or Constructed

Property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 180 days after you acquire the property or begin construction of that part of the building that would qualify as Covered Property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as Covered Property.

b. Personal Property Off Premises

- (1) If your policy covers Business Personal Property, you may extend the insurance provided in **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to apply to direct physical loss or damage when such loss or damage is caused by a Covered Cause of Loss while:

- (a) At a location you do not own, lease or operate; or
- (b) At any fair, trade show or exhibition.

- (2) The most we will pay for loss or damage under this Extension is \$50,000 or the amount shown in the Additional Property Coverage Schedule, whichever is greater.

- (3) **Special Personal Property Off Premises Exclusions**

This extension does not apply to property:

- (a) In or on a vehicle; or
- (b) In the care, custody or control of your sales representative, unless the property is in such care, custody or control at a fair, trade show or exhibition.

c. Outdoor Property

- (1) You may extend insurance provided by this Coverage Form to apply to direct physical loss or damage to your radio and television antennas (including satellite dishes), trees, shrubs, plants and lawns (other than trees, shrubs or plants which are "stock" or are a part of a vegetated roof) including debris removal

expense, caused by or resulting from any of the following causes of loss:

- (a) Fire;
- (b) Lightning;
- (c) Explosion;
- (d) Riot or civil commotion;
- (e) Aircraft;
- (f) Windstorm; or
- (g) Ice, snow, sleet and hail.

- (2) Coverage under this Extension does not apply to property held for sale by you.

- (3) Regardless of the number of described premises involved, the most we will pay for loss or damage under this Extension, including debris removal expense, is \$10,000, but not more than \$1,000 for any one tree, shrub or plant.

d. Personal Effects

- (1) If your policy covers Business Personal Property, you may extend the insurance provided in **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to apply to direct physical loss or damage to personal effects owned by you, your officers, your partners or "members", your "managers" or your "employees" when such loss or damage is caused by a Covered Cause of Loss.

- (2) This extension does not apply to:

- (a) Tools or equipment used in your business; and
- (b) "Employees" tools and small equipment;

- (3) The most we will pay for loss or damage under this Extension is \$10,000 at each described premises.

e. Valuable Papers and Records (Other Than Electronic Data)

- (1) If your policy covers Business Personal Property, you may extend the insurance provided under **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control caused by or resulting from a Covered Cause

of Loss. This Coverage Extension includes the cost to, research, replace or restore the lost information on "valuable papers and records" for which duplicates do not exist.

(2) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the described premises is \$25,000, unless a higher Limit of Insurance for "valuable papers and records" is shown in the Additional Property Coverage Schedule.

(3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence not at the described premises is \$25,000, unless a higher Limit of Insurance for "valuable papers and records" is shown in the Additional Property Coverage Schedule.

(4) This Coverage Extension does not apply to:

- (a) Property held as samples or for delivery after sale; or
- (b) Property in storage away from the premises shown in the Declarations;

(5) **SECTION I - PROPERTY, B. Exclusions** does not apply to this Coverage Extension except for:

- (a) Paragraph 1.c. **Governmental Action**;
- (b) Paragraph 1.d. **Nuclear Hazard**;
- (c) Paragraph 1.f. **War and Military Action**;
- (d) Paragraph 2.d. **Dishonesty**;
- (e) Paragraph 2.e. **False Pretense**;
- (f) Paragraph 2.k. **Errors or Omissions**; and
- (g) Paragraph 3.a. **Weather Conditions**, 3.b. **Acts or Decisions** and 3.c. **Negligent Work**.

f. Accounts Receivable

(1) If your policy covers Business Personal Property, you may extend the insurance provided in **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to accounts receivable when such loss or damage

is caused by or results from a Covered Cause of Loss. We will pay:

- (a) All amounts due from your customers that you are unable to collect;
- (b) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
- (c) Collection expenses in excess of your normal collection expenses that are made necessary by loss or damage; and
- (d) Other reasonable expenses that you incur to re-establish your records of accounts receivable;

that result from direct physical loss or damage by any Covered Cause of Loss to your records of accounts receivable.

(2) We will pay under this Coverage Extension for loss or damage in any one occurrence at the described premises. The most we will pay is \$25,000 for accounts receivable at the described premises, unless a higher Limit of Insurance for accounts receivable is shown in the Additional Property Coverage Schedule.

(3) We will pay under this Coverage Extension for loss or damage in any one occurrence not at the described premises. The most we will pay is \$25,000 for accounts receivable not at the described premises.

(4) **SECTION I - PROPERTY, B. Exclusions** does not apply to this Coverage Extension except for:

- (a) Paragraph 1.c. **Governmental Action**;
- (b) Paragraph 1.d. **Nuclear Hazard**;
- (c) Paragraph 1.f. **War and Military Action**;
- (d) Paragraph 2.d. **Dishonesty**;
- (e) Paragraph 2.e. **False Pretense**; and
- (f) Paragraph 3.a. **Weather Conditions**, 3.b. **Acts or Decisions** and 3.c. **Negligent Work**.

(5) **Accounts Receivable Special Exclusion**

We will not pay for:

- (a) Loss or damage caused by or resulting from alteration, falsification, concealment or destruction of records of accounts receivable done to conceal the wrongful giving, taking or withholding of "money", "securities" or "other property".

This exclusion applies only to the extent of the wrongful giving, taking or withholding.

- (b) Loss or damage caused by or resulting from bookkeeping, accounting or billing errors or omissions.
- (c) Any loss or damage that requires any audit of records or any inventory computation to prove its factual existence.

g. Key Replacement and Lock Repair

- (1) You may extend the insurance provided under this Coverage Form to cover the reasonable and necessary expense you incur due to a covered "theft" for:
 - (a) Replacement of keys if they are stolen;
 - (b) Lock repair; or
 - (c) Rekeying, replacing or reprogramming undamaged locks to accept new keys or entry codes when the building security has been compromised.
- (2) The most we will pay under this Extension is \$1,000. The deductible does not apply to this Extension.

h. Appurtenant Structures

- (1) If your policy covers Buildings, you may extend the insurance provided under Building to apply to direct physical loss or damage to garages, carports, storage buildings and other appurtenant structures, including, but not limited to, swimming pools, spas and the associated equipment within 1,000 feet of the described premises when such loss or damage is caused by or results from a Covered Cause of Loss.
- (2) The most we will pay for loss or damage under this Extension is \$50,000 at each described premises regardless of the number of buildings or structures affected.

i. Personal Property in Transit

- (1) If your policy covers Business Personal Property, you may extend the insurance provided in **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to apply to direct physical loss or damage to your property or property of others that is in your care, custody or control while "in transit" when such loss or damage is caused by or results from a Covered Cause of Loss.
- (2) You may extend the insurance that applies to **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to apply to direct physical loss or damage, caused by a Coverage Cause of Loss, to outgoing shipments that have been rejected, while in due course of transit back to you or while awaiting return shipment to you.
- (3) This Extension applies to the property while in:
 - (a) A vehicle owned, leased or operated by you; or
 - (b) The custody of a common carrier or contract carrier.
- (4) The following in **SECTION I - PROPERTY, B. Exclusions**, paragraph 1. do not apply to this Extension:
 - (a) **b. Earth Movement**; and
 - (b) **g. Water**.
- (5) The most we will pay for loss or damage under this Coverage Extension is \$10,000 unless a higher Limit of Insurance is shown in the Schedule of Amended Limits of Insurance.
- (6) **Special Personal Property in Transit Exclusions**
This Extension does not apply to:
 - (a) Shipments that belong to others that you are transporting for a fee;
 - (b) Property while waterborne;
 - (c) Salesperson's Samples; or
 - (d) Loss to "perishable goods" resulting from a breakdown of refrigeration equipment on any vehicle owned, leased or operated by you or while in the custody of a common or contract carrier.

j. Inventory and Loss Appraisal

(1) We will pay for all reasonable expenses you incur at our written request to assist us in:

- (a) The investigation of a claim;
- (b) The determination of the amount of loss, such as taking inventory;
- (c) The cost of preparing specific loss documents and other supporting exhibits; or
- (d) Expenses you incur include costs charged to you by others, including property managers, acting on your behalf to assist us with items listed in paragraph (1) above.

(2) Regardless of the number of premises involved, the most we will pay under this Extension is \$10,000.

(3) The deductible does not apply to these expenses.

(4) Special Inventory and Loss Appraisal Exclusion

We will not pay for expenses:

- (a) Incurred to perform your duties in the event of a loss under **SECTION I - PROPERTY, E. Property Loss Conditions**;
- (b) To prove that loss or damage is covered;
- (c) Billed by and payable to independent or public adjusters; attorneys; claims advocates; or any of their affiliated or associated entities;
- (d) To prepare claims not covered by this Coverage Form; or
- (e) Incurred under any appraisal provisions within the Coverage Form.

k. Business Personal Property Temporarily in Portable Storage Units

- (1) If your policy covers Business Personal Property, you may extend the insurance provided in **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, b. Business Personal Property** to apply to direct physical loss or damage to such property while temporarily stored in a portable storage unit (including a detached trailer) located within 1,000 feet of the buildings or structures

described in the Declarations or within 1,000 feet of the described premises, whichever distance is greater when such loss or damage is caused by or results from a Covered Cause of Loss.

(2) We will not pay for loss of or damage to Business Personal Property temporarily in portable storage units, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:

- (a) The portable storage unit first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
- (b) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.

(3) Coverage under this Extension:

- (a) Will end 90 days after the Business Personal Property has been placed in the storage unit;
- (b) Does not apply if the storage unit itself has been in use at the described premises for more than 90 consecutive days, even if the Business Personal Property has been stored there for 90 or fewer days as of the time of loss or damage.

(4) Under this Extension, the most we will pay for the total of all loss or damage to Business Personal Property is \$25,000 unless a higher limit is shown in the Additional Property Coverage Schedule for this Extension regardless of the number of storage units.

(5) This Extension does not apply to loss or damage otherwise covered under this Coverage Form or any endorsement to this Coverage Form, and does not apply to loss or damage to the storage unit itself.

l. Paved Surfaces

- (1) If your policy covers Buildings, you may extend the insurance provided under **SECTION I - PROPERTY, A. Coverage, 1. Covered Property, a. Building** to apply to direct physical loss or damage to your paved surfaces, including but not limited to bridges, roadways, walks, patios, and parking lots when such loss or

damage is caused by or results from a Covered Cause of Loss.

- (2) Regardless of the number of described premises involved, the most we will pay for loss or damage in any one occurrence is \$25,000.
- (3) Payment for loss or damage to this property is included in the applicable Limit of Insurance.
- (4) **Special Paved Surfaces Exclusion**

We will not pay for loss or damage caused by tree roots, freezing or thawing.

m. Underground Pipes

- (1) If your policy covers Buildings, you may extend the insurance provided in **SECTION 1 - PROPERTY, A. Coverage, 1. Covered Property, a. Building** to apply to direct physical loss or damage to underground pipes, flues and drains when such loss or damage is caused by or results from a Covered Cause of Loss.
- (2) The most we will pay for loss under this Coverage Extension is the applicable Limit of Insurance.
- (3) Payment under this Additional Coverage is included within the Limit of Insurance.
- (4) **Special Underground Pipes Exclusion**
We will not pay for loss or damage caused by tree roots.

B. Exclusions

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

a. Ordinance or Law

- (1) The enforcement of or compliance with any ordinance or law:
 - (a) Regulating the construction, use or repair of any property; or
 - (b) Requiring the tearing down of any property, including the cost of removing its debris.
- (2) This exclusion, Ordinance or Law, applies whether the loss results from:
 - (a) An ordinance or law that is enforced even if the property has not been damaged; or

- (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property or removal of its debris, following a physical loss to that property.

This exclusion does not apply to the Ordinance or Law Additional Coverage.

b. Earth Movement

- (1) Earthquake, including tremors and aftershocks and any earth sinking, rising or shifting related to such event;
- (2) Landslide, including any earth sinking, rising or shifting related to such event;
- (3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;
- (4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in paragraphs (1), (2), (3) and (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

- (5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or volcanic action, we will pay for the loss or damage caused by that fire, building glass breakage or volcanic action.

Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
- (b) Ash, dust or particulate matter; or
- (c) Lava flow.

With respect to coverage for volcanic action as set forth in paragraph (5), subparagraphs (a), (b) and (c) above, all volcanic eruptions that occur within

any 168-hour period will constitute a single occurrence.

Volcanic action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss of or damage to Covered Property.

This exclusion applies regardless of whether or not any of the above, in **SECTION I - PROPERTY, B. Exclusions**, paragraph 1., **b Earth Movement**, subparagraphs (1), (2), (3), (4) and (5), are caused by an act of nature or is otherwise caused.

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Coverage Form.

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

e. Utility Services

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

- (1) Originates away from the described premises; or
- (2) Originates at the described premises, but only if such failure involves equipment used to supply the utility services to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.

Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause

of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

This exclusion does not apply to loss or damage to "computer equipment" and "electronic data" or to **SECTION I - PROPERTY, 5. Additional Coverages, bb. Utility Services**.

f. War and 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.

g. Water

- (1) "Flood", surface water, waves (including tidal wave or tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump; or related equipment;
- (4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;
 - (b) Basements, whether paved or not; or
 - (c) Doors, windows or other openings.
- (5) Waterborne material carried or otherwise moved by any of the water referred to in paragraphs (1), (3) or (4) above, or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of paragraphs (1), (2), (3), (4) and (5) above, are caused by an act of nature or is otherwise caused. An example

of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if Water, as described in paragraphs (1), (2), (3), (4) and (5) above, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage. If electrical "covered equipment" requires drying out because of paragraphs (1), (2), (3), (4) and (5) above, we will pay for the direct expenses of such drying out subject to the applicable Limit of Insurance and Deductible for Building or Personal Property, whichever applies.

h. Fungi, Wet Rot or Dry Rot

Presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot.

But if "fungi", wet rot or dry rot results in any of the "specified causes of loss", we will pay for the loss or damage caused by any of the "specified causes of loss".

This exclusion does not apply:

- (1) When "fungi", wet rot or dry rot results from fire or lightning; or
- (2) To the extent that coverage is provided in the **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverage, ff. Limited Coverage for Fungi, Wet Rot or Dry Rot**, with respect to loss or damage by a cause of loss other than fire or lightning.

i. Virus or Bacteria

- (1) Any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.
- (2) However, the exclusion in paragraph (1) above, does not apply to loss or damage caused by or resulting from "fungi", wet rot or dry rot. Such loss or damage is addressed in **SECTION I - PROPERTY, B. Exclusions, paragraph 1., h. Fungi, Wet Rot or Dry Rot**.
- (3) With respect to any loss or damage subject to the exclusion in paragraph (1) above, such exclusion supersedes any exclusion relating to "pollutants".

SECTION I - PROPERTY, B. Exclusions, paragraphs 1.a., 1.b., 1.c., 1.d., 1.e., 1.f., 1.g., 1.h. and 1.i. apply whether or not the loss

event results in widespread damage or affects a substantial area.

2. We will not pay for loss or damage caused by or resulting from any of the following:

a. Consequential Losses

Delay, loss of use or loss of market, however caused.

b. Smoke, Vapor and Gas

Smoke, vapor or gas from agricultural smudging or industrial operations.

c. Frozen Plumbing

Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

- (1) You do your best to maintain heat in the building or structure; or
- (2) You drain the equipment and shut off the supply if the heat is not maintained.

d. Dishonesty

Dishonest or criminal act by you, any of your partners, "members", officers, managers, employees, directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:

- (1) Acting alone or in collusion with others; or
- (2) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees; but "theft" by employees is not covered.

This exclusion does not apply to coverage that is provided under the Employee Theft including ERISA Additional Coverage.

e. False Pretense

Voluntary parting with any property by you or anyone else to whom you have sold, given or otherwise entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.

This exclusion does not apply to the Unauthorized Business Card Use Additional Coverage.

f. Exposed Property

Rain, snow, ice or sleet to personal property in the open.

g. Collapse

(1) Collapse, including any of the following conditions of property or any part of the property:

- (a) An abrupt falling down or caving in;
- (b) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
- (c) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to paragraphs (a) or (b) above.

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

(2) This Exclusion g. does not apply:

- (a) To the extent that coverage is provided under **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, d. Collapse**; or
- (b) To collapse caused by one or more of the following:
 - (i) Any of the "specified causes of loss"
 - (ii) Breakage of building glass;
 - (iii) Weight of rain that collects on a roof; or
 - (iv) Weight of people or personal property

h. Pollution

Discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in any of the "specified causes of loss", we will pay for the loss or damage caused by any of the "specified causes of loss".

i. Neglect

Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

j. Other Types of Loss

- (1) Wear and tear;

(2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;

(3) Smog;

(4) Settling, cracking, shrinking or expansion;

(5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals; or

(6) Mechanical breakdown, including rupture or bursting caused by centrifugal force.

This exclusion does not apply with respect to the breakdown of "computer equipment".

This exclusion does not apply to the Equipment Breakdown Additional Coverage.

(7) The following causes of loss to personal property:

- (a) Dampness or dryness of the atmosphere;
- (b) Changes in or extremes of temperature; or
- (c) Marring or scratching.

But if an excluded cause of loss that is listed in paragraphs (1), (2), (3), (4), (5), (6) and (7) above, results in any of the "specified causes of loss", "accident", "electronic circuitry impairment" or building glass breakage, we will pay for the loss or damage caused by any of the "specified causes of loss", "accident", "electronic circuitry impairment" or building glass breakage.

k. Errors or Omissions

Errors or omissions in:

- (1) Programming, processing or storing "electronic data" or in any "computer equipment" operations; or
- (2) Processing or copying "valuable papers and records".

However, we will pay for direct physical loss or damage caused by resulting fire, "accident", "electronic circuitry impairment" or explosion if these causes of loss would be covered by this Coverage Form.

l. Installation, Testing, Repair

Errors or deficiency in design, installation, testing, maintenance, modification or

repair of your "computer equipment" system including "software".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

m. Electrical Disturbance

Electrical or magnetic injury, disturbance or erasure of "electronic data", except as provided for in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, and 6. Coverage Extensions.**

However, we will pay for direct loss or damage caused by lightning.

n. Artificially Generated Electricity

Artificially generated electric current including electric arcing, that disturbs electrical devices, appliances or wires except as provided for in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, u. - Equipment Breakdown.** But, if artificially generated electric current results in fire, we will pay for the loss or damage caused by fire.

o. Computer Processing Exclusion

- (1) Errors or omissions in programming or incorrect instructions to "hardware";
- (2) Electrical or magnetic damage, disturbance of recordings or erasure of electronic recordings, except as provided under **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, u. Equipment Breakdown.** We will also pay for direct loss caused by lightning;
- (3) Mechanical breakdown or malfunction, component failure, faulty installation or blowouts; except as provided for under **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, u. Equipment Breakdown;** or
- (4) Faulty instruction or incorrect usage, including changes in arrangements or parts.

p. Loss of Warranty

Loss of warranty or similar future or potential benefit even when following a covered loss or covered damage.

- (1) Loss of this type does not meet direct physical loss or damage.
- (2) We agree that reasonable repair or reconditioning measures be pursued to ensure soundness of property after loss or damage:

(a) Where proper and adequate report or reconditioning method is debated, you and we agree to follow the usual and customary industry repair and reconditioning practices; or

(b) For situations not resolved by paragraph (a) above, either party may demand that the matter be resolved through Appraisal as provided for elsewhere in the Coverage Form.

q. Continuous or Repeated Seepage or Leakage of Water

Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.

r. Authorized Access

Loss resulting from a fraudulent:

- (1) Entry of "electronic data" or "computer program" into; or
- (2) Change of "electronic data" or "computer program" within;

any "computer equipment" owned, leased or operated by you by a person or organization with authorized access to that "computer equipment", except when covered under **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, hh. Computer and Funds Transfer Fraud,** paragraph b..

s. Fraudulent Instructions

Loss resulting from an "employee" or "financial institution" acting upon any instruction to:

- (1) Transfer, pay or deliver "money", "securities" or "other property"; or
- (2) Debit or delete your account; which instruction proves to be fraudulent, except when covered under **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, hh. Computer and Funds Transfer Fraud,** paragraphs a.(2) and b..

3. We will not pay for loss or damage caused by or resulting from paragraphs a., b. and c. below. But if an excluded cause of loss that is listed in paragraphs a., b. and c. below, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

a. Weather Conditions

But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in **SECTION I - PROPERTY, B. Exclusions**, paragraph 1. to produce the loss or damage.

b. Acts or Decisions

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

c. Negligent Work

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.

4. Additional Exclusion

The following applies only to the property specified in this Additional Exclusion:

Loss or Damage to Products

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

5. Business Income and Extra Expense Exclusions

We will not pay for:

- a. Any Extra Expense or Increase of Business Income loss caused by or resulting from:
 - (1) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons;

- (2) "Suspension", lapse or cancellation of any license, lease or contract. But if the "suspension", lapse or cancellation is directly caused by the "suspension" of "operations", we will cover such loss that affects your Business Income during the "period of restoration" in accordance with the terms of **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, f. Business Income, (2) Extended Business Income**.

- (3) Damage or destruction of "finished stock"; the time required to reproduce "finished stock"; or

- (4) Any other consequential loss.

Paragraph 5.a.(3) does not apply to Extra Expense.

C. Limits of Insurance

1. The most we will pay for loss or damage in any one occurrence is the applicable Limits of Insurance of **SECTION I - PROPERTY** shown in the Declarations.

2. The amounts of insurance applicable to the Coverage Extensions and the following Additional Coverages apply in accordance with the terms of such coverages and are in addition to **SECTION I - PROPERTY, C. Limits of Insurance**:

- a. Fire Department Service Charge;
- b. Pollutant Clean-Up and Removal;
- c. Civil Authority;
- d. Money Orders and Counterfeit Money;
- e. Forgery or Alteration;
- f. Ordinance or Law;
- g. Business Income from Dependent Properties;
- h. Glass Expenses;
- i. Fire Protection Equipment Recharge
- j. Employee Theft;
- k. Rewards - Arson and Theft;
- l. Computer Equipment;
- m. Tenant Signs (Tenants Only);
- n. Commercial Tools and Small Equipment;
- o. Installation;
- p. Fine Arts;
- q. Sales Representative Samples;
- r. Leasehold Interest (Tenants Only);
- s. Unauthorized Business Credit Card Use;
- t. Deferred Payments;

- u. Money and Securities;
- v. Electronic Vandalism;
- w. Interruption of Computer Operations;
- x. Theft of Telephonic Services;
- y. Computer and Funds Transfer Fraud;
- z. Tenant Building Insurance - When Your Lease Requires You to Provide Insurance; or
- aa. Tenant Business Personal Property Insurance - When Your Lease Requires You to Provide Insurance.

3. Building Limit - Increase

If Covered Property is written on a Replacement Cost basis:

- a. The Limit of Insurance for Buildings will be revised by changes that occurred in the cost of construction during the preceding policy year.
- b. The amount of increase will be determined by reports of a recognized valuation method.
- c. We will inform you of such adjusted values. Upon their acceptance, you agree to pay any additional premium for the adjusted limit. Payment of your renewal premium, which includes the revised Limit of Insurance, shall constitute acceptance.
- d. We will pay the replacement cost value of the damaged portion of the building at the time of loss, but not more than 125% of the Limit of Insurance for Building if:
 - (1) The amount of any loss covered by this Coverage Form exceeds the Limit of Insurance for Building stated in the Declarations for the damaged Building; and
 - (2) The actual repair or replacement is completed within one year of the date of loss.
- e. The **Building Limit - Increase** clause will not apply if:
 - (1) You do not accept the adjusted value; or
 - (2) You do not inform us of changes to covered Building:
 - (a) Within sixty (60) days of the date any additions, improvements or enlargements to the building are begun, and
 - (b) When the replacement value of the changes are more than 5% of

the Limit of Insurance for the building.

4. Business Personal Property Limit - Seasonal Increase

- a. The Limit of Insurance for Business Personal Property will increase by 25% to provide for seasonal variations.
- b. This increase will apply only if the Limit of Insurance shown for Business Personal Property in the Declarations is at least 100% of your average monthly values during the lesser of:
 - (1) The 12 months immediately preceding the date the loss or damage occurs; or
 - (2) The period of time you have been in business as of the date the loss or damage occurs.

D. Deductibles

- 1. We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Declarations. We will then pay the amount of loss or damage in excess of the Deductible up to the applicable limit in **SECTION I - PROPERTY, C. Limit of Insurance**.
- 2. No Deductible applies to the following Additional Property Coverages and Extensions of Coverage:
 - a. Fire Department Service Charge;
 - b. Fire Protection Equipment Recharge;
 - c. Business Income;
 - d. Extra Expense;
 - e. Civil Authority;
 - f. Key Replacement and Lock Repair;
 - g. Deferred Payment;
 - h. Debris Removal;
 - i. Rewards - Arson, Theft and Vandalism;
 - j. ERISA Compliance;
 - k. Preservation of Property;
 - l. Pollutant Clean-Up and Removal;
 - m. Ordinance or Law;
 - n. Leasehold Interest (Tenants Only);
 - o. Unauthorized Business Credit Card Use;
 - p. Business Income from Dependent Properties; and
 - q. Inventory and Loss Appraisal.
- 3. A \$250 Deductible applies to the following Coverages:
 - a. Glass - Interior and Exterior; and

b. Glass Expenses.

4. A \$500 Deductible applies to all of the Additional Property Coverages and Extensions of Coverage scheduled on the Declarations, except Equipment Breakdown, unless otherwise indicated in paragraphs 2., 3. or 5. of this section.
5. A \$1,000 Deductible applies to the following Additional Property Coverages and Extensions of Coverage:
 - a. Employee Theft (except ERISA Compliance);
 - b. Sales Representative Samples;
 - c. Installation;
 - d. Personal Property Off Premises;
 - e. Personal Property In Transit.
6. The Deductible shown in the Declarations for the Equipment Breakdown Additional Coverage applies to the Additional Coverage for Equipment Breakdown.
7. Each Deductible shall be applied separately, but only to the coverage specified. The total Deductible for all losses in one occurrence will be the highest Deductible amount that applies to that occurrence.
8. The Business Income Waiting Period shown on the Declarations Page for the Business Income and Civil Authority Additional Coverages is applicable in addition to a Deductible.

E. Property Loss Conditions

1. Abandonment

There can be no abandonment of any property to us.

2. Appraisal

If you and we disagree on the amount of a covered loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

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

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

3. Duties in the Event of Loss or Damage

a. You must see that the following are done in the event of loss or damage to Covered Property:

- (1) Notify the police if a law may have been broken.
- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase **SECTION I - PROPERTY, C. Limits of Insurance**. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
- (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.

- (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.
- (9) Resume all or part of your "operations" as quickly as possible.

b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter

relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

4. Legal Action Against Us

No one may bring a legal action against us under this insurance unless:

- a. There has been full compliance with all of the terms of this insurance; and
- b. The action is brought within 2 years after the date on which the direct physical loss or damage occurred. The 2 year limitation also applies to indirect or consequential loss covered under this Coverage Form.

5. Loss Payment

In the event of loss or damage covered by this Coverage Form:

- a. At our option, we will either:
 - (1) Pay the value of lost or damaged property;
 - (2) Pay the cost of repairing or replacing the lost or damaged property;
 - (3) Take all or any part of the property at an agreed or appraised value; or
 - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to paragraph d., subparagraph (1)(d) below.
- b. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- c. We will not pay you more than your financial interest in the Covered Property.
- d. We will determine the value of Covered Property as follows:
 - (1) At replacement cost without deduction for depreciation except as provided in paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15) and (16) below.
 - (a) You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim on a replacement cost basis if you notify us of your intent to do so within 180 days after the loss or damage.

- (b) We will not pay on a replacement cost basis for any loss or damage:

- (i) Until the loss or damaged property is actually repaired or replaced;
- (ii) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage; and
- (iii) Unless the repairs or replacement are completed within 24 months for personal property or for buildings and other real property after the loss or damage, unless extended in writing by us.

However, if the cost to repair or replace a damaged building is \$2,500 or less we will determine the value at replacement cost without deduction for depreciation.

- (c) We will not pay more for loss or damage on a replacement cost basis than the least of the following amounts:

- (i) The cost to replace, on the same premises, the lost or damaged property with other property:

- 1) Of comparable material and quality; and
- 2) Used for the same purpose; or

- (ii) The amount that you actually spend that is necessary to repair or replace the lost or damaged property.

If a building is rebuilt at a new location, the recoverable amount is limited to the cost which would have been incurred had the building been built at the original premises.

- (d) The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
- (2) If the Declarations indicate the Actual Cash Value applies to Building or Personal Property, paragraph (1) above does not apply to that property. Instead, we will determine the value of that property at the actual cash value.



- (3) The following property at actual cash value:
- (a) Used or second-hand merchandise held in storage or for sale;
 - (b) Property of others. However, if an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance;
 - (c) Household contents, except personal property in apartments or rooms furnished by you as landlord;
 - (d) Manuscripts;
 - (e) Works of art, "antiques" or rare articles, including but not limited to, etchings, pictures, statuary, marbles, bronzes, porcelains, glassware and bric-a-brac not otherwise covered in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverage, x. Fine Arts**; or
 - (f) Commercial Tools and Small Equipment and Contractors Tools and Equipment. This does not apply to your Commercial Tools and Small Equipment permanently installed or exclusively used at the described premises.
- (4) Glass at the cost of replacement with safety glazing material if required by law.
- (5) Tenant's Improvements and Betterments at:
- (a) Replacement cost if you make repairs promptly.
 - (b) A proportion of your original cost if you, as the tenant, do not make repairs promptly. We will determine the proportionate value as follows:
 - (i) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
 - (ii) Divide the amount determined in paragraph (i) above by the number of days from the installation of improvements to the expiration of the lease.
- If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
- (c) Nothing if others pay for repairs or replacement.
- (6) "Valuable papers and records" at the cost of restoration or replacement, including the cost of data entry, re-programming, computer consultation services and the "media" on which the data or programs reside. To the extent that the contents of the "valuable papers and records" are not restored, the "valuable papers and records" will be valued at the cost of replacement with blank materials of substantially identical type.
- (7) "Money" at its face value; and
- (8) "Securities" at their value at the close of business on the day the loss is "discovered".
- (9) Accounts Receivable:
- (a) If you cannot accurately establish the amount of accounts receivable outstanding as of the time of loss or damage:
 - (i) We will determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss or damage occurs; and
 - (ii) We will adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
 - (b) The following will be deducted from the total amount of accounts receivable, regardless of how that amount is established:
 - (i) The amount of the accounts for which there is no loss or damage;

- (ii) The amount of the accounts that you are able to re-establish or collect;
 - (iii) An amount to allow for probable bad debts that you are normally unable to collect; and
 - (iv) All unearned interest and service charges.
 - (10) "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.
 - (11) "Finished stock" you manufactured at selling price less discounts and expenses you otherwise would have had.
 - (12) Personal Property in Transit (other than "stock" you have sold) at the amount of invoice, including your prepaid or advanced freight charges and other charges which may have accrued or become legally due since the shipment. If you have no invoice, actual cash value will apply.
 - (13) Precious metals, such as gold, silver and platinum, at the average market cost of replacements on the date of loss, or the actual cost of the replacement, if less.
 - (14) "Fine Arts"
 - We will pay the lesser of:
 - (a) The market value at the time of loss or damage;
 - (b) The reasonable cost of repair or restoration to the condition immediately before the covered loss or damage; or
 - (c) The cost of replacement with substantially identical property.
 - e. Our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
 - f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
 - g. We will pay for covered loss or damage within 30 days after we receive a properly completed sworn proof of loss, provided you have complied with all of the terms of this Coverage Form, and
 - (1) We have reached agreement with you on the amount of loss; or
 - (2) An appraisal award has been made.
 - h. In settling covered losses involving a party wall, we will pay a proportion of the loss, to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance, the Valuation and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of **SECTION III - COMMON POLICY CONDITIONS, K. Transfer of Rights of Recovery Against Others to Us** in this policy.
- 6. Recovered Property**
- If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, you may retain the property. But then you must return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to **SECTION I - PROPERTY, C the Limits of Insurance**.
- 7. Vacancy**
- a. Description of Terms**
- (1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in paragraphs (a) and (b) below:
 - (a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such leased space is vacant when it does not contain

enough business personal property to conduct customary "operations".

- (b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:

- (i) Rented to a lessee or sub-lessee and used by the lessee or sub-lessee to conduct its customary operations; and/or
- (ii) Used by the building owner to conduct customary operation.

- (2) Buildings under construction or renovation are not considered vacant when customary "operations" cannot be conducted as a direct result of the construction or renovation.

b. Vacancy Provisions

If the building or leased space where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:

- (a) Vandalism;
- (b) Sprinkler leakage due to freezing, unless you have protected the system against freezing;
- (c) Building glass breakage;
- (d) Water damage;
- (e) "Theft"; or
- (f) Attempted "theft".

- (2) With respect to Covered Causes of Loss other than those listed in paragraphs (a), (b), (c), (d), (e) and (f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

8. Pair, Sets or Parts

For pairs or sets, we will either:

- (a) Repair or replace any part to restore the value and condition of the pair or set to that immediately before the covered loss or damage; or
- (b) Pay the difference between the value of the pair or set before and after the covered loss or damage.

- (c) Covered Property consisting of several parts when complete, we will only pay for the value of the lost or damaged part.

F. Property General Conditions

1. Control of Property

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this Coverage Form at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

2. Mortgageholders

- a. The term mortgageholder includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Coverage Form, the mortgageholder will still have the right to receive loss payment if the mortgageholder:

- (1) Pays any premium due under this policy at our request if you have failed to do so;
- (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
- (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this Coverage Form will then apply directly to the mortgageholder.

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Form:

- (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The mortgageholder's right to recover the full amount of the

mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least:

- (1) 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
- (2) 30 days before the effective date of cancellation if we cancel for any other reason.

- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

3. No Benefit to Bailee

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

4. Policy Period, Coverage Territory

Under **SECTION I - PROPERTY:**

- a. We cover loss or damage commencing:
- (1) During the policy period shown in the Declarations; and
 - (2) Within the coverage territory or, with respect to property "in transit", while it is between points in the coverage territory.
- b. The coverage territory is:
- (1) The United States of America (including its territories and possessions);
 - (2) Puerto Rico; and
 - (3) Canada.

5. Protective Devices

- a. If you received a discount to the property premium of this policy because of the existence of one of the following protective devices, you are required to maintain that protective device. Existence of an applicable protective devices credit can be found on the Declarations Page.
- b. Protective devices include Automatic Sprinkler Systems including related supervisory services, Automatic Fire Alarms and Central Station Security Alarms.

- c. We will not pay for loss or damage caused by a Covered Cause of Loss which a device is intended to protect against if you:

- (1) Knew of any suspension or impairment in any protective device and failed to notify us of that fact; or
- (2) Failed to maintain any protective device over which you had control in complete working order.

If part of an Automatic Sprinkler System is shut off due to breakage, leakage, freezing conditions or opening of sprinkler heads, notification to us will not be necessary if you can restore full protection within 48 hours.

6. Increase in Hazard

We will not pay for loss or damage when there has been a material increase in hazard that is within your knowledge or control. This condition applies to any and all portions of a claim.

G. Property Definitions

1. "Accident"

- a. "Accident" means a fortuitous event that causes direct physical damage to "covered equipment". The event must be one of the following:
- (1) Mechanical breakdown, including rupture or bursting caused by centrifugal force;
 - (2) Artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances or wires;
 - (3) Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control;
 - (4) Loss or damage to steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; or
 - (5) Loss or damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment.
- b. None of the following is an "accident":
- (1) Defect, programming error, programming limitation, computer virus, malicious code, loss of data, loss of access, loss of use, loss of functionality or other condition within

or involving data or "media" of any kind; or

- (2) Misalignment, miscalibration, tripping off-line, or any condition which can be corrected by resetting, tightening, adjusting or cleaning, or by the performance of maintenance.

However, if an "accident" results, we will pay for the resulting loss, damage or expense caused by that "accident".

2. "Antique" or "antiques" means an object having value because its:

- a. Craftsmanship is in the style or fashion of former times; and
- b. Age is 100 years old or older.

3. "Cloud computing services" means professional, on-demand, self-service data storage or data processing services provided through the Internet or over telecommunications lines. This includes services known as IaaS (Infrastructure as a service), PaaS (platform as a service), SaaS (software as a service) and NaaS (network as a service). This includes business models known as public clouds, community clouds and hybrid clouds. "Cloud computing services" include private clouds if such services are owned and operated by a third party.

4. "Computer equipment" means:

- a. "Hardware" and related component parts. Component parts include but are not limited to modems, routers, printers, keyboards, monitors, and scanners;
- b. "Software"; and
- c. "Protection and control equipment".

"Computer equipment" does not mean "Computer equipment" used to operate production-type machinery or equipment.

5. "Computer hacking" means an unauthorized intrusion by an individual or group of individuals, whether employed by you or not, into "hardware" or "software", a Web site, or a computer network and that results in but is not limited to:

- a. Deletion, destruction, generation, or modification of "software";
- b. Alteration, contamination, corruption, degradation, or destruction of the integrity, quality or performance of "software";
- c. Observation, scanning, or copying of "electronic data", "programs" and "proprietary programs";

- d. Damage, destruction, inadequacy, malfunction, degradation, or corruption of any "hardware" or "media" used with "hardware"; or

- e. Denial of access to or denial of services from "hardware", "software", computer network, or Web site including related "software".

6. "Computer program" means a set of related electronic instructions, which direct the operation and function of a computer or devices connected to it, which enable the computer or devices to receive, process, store or send "electronic data".

7. "Computer Virus" means the introduction into "hardware", "software", computer network, or Web site of any malicious, self-replicating electronic data processing code or other code and that is intended to result in, but is not limited to:

- a. Deletion, destruction, generation, or modification of "software";

- b. Alteration, contamination, corruption, degradation, or destruction of the integrity, quality, or performance of "software";

- c. Damage, destruction, inadequacy, malfunction, degradation, or corruption of any "hardware" or "media" used with "hardware"; or

- d. Denial of access to or denial of services from "hardware", "software", computer network, or Web site including related "software".

8. "Counterfeit money" means an imitation of "money" that is intended to deceive and to be taken as genuine.

9. "Covered equipment" means Covered Property which, during normal usage, operates under vacuum or pressure, other than the weight of its contents, or that generates, transmits or utilizes energy.

"Covered equipment" may utilize conventional design and technology or new or newly commercialized design and technology.

"Covered equipment" does not include:

- a. Structure, foundation, cabinet or compartment;

- b. Insulating or refractory material;

- c. Sewer piping, buried vessels or piping, or piping forming a part of a sprinkler or fire suppression system;

- d. Water piping other than boiler feedwater piping, boiler condensate return piping or

- water piping forming a part of a refrigerating or air conditioning system;
- e. Dragline, excavation equipment or construction equipment;
 - f. Vehicle, meaning any machine or apparatus that is used for transportation or moves under its own power or any equipment mounted on a vehicle. Vehicle includes but is not limited to: car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester. However, any property that is stationary, permanently installed at a covered location and that receives electrical power from an external power supplier will not be considered a vehicle;
 - g. Equipment manufactured by you for sale or
 - h. Satellite, spacecraft or any equipment mounted on a satellite or spacecraft.
10. "Data" means a representation of information, knowledge, facts, concepts or instructions which are being processed or have been processed in "computer equipment".
11. "Data records" means files, documents and information in an electronic format and that are stored within "electronic data".
12. "Denial of service attack" means the malicious direction or a high volume of worthless inquiries to website or e-mail destinations, effectively denying or limiting legitimate access regardless of whether or not damage to "computer equipment" results.
13. "Dependent property" or "dependent properties" means the property owned by others whom you depend upon to:
- a. Deliver materials or services to you or to others for your account. But services do not mean water supply services, wastewater removal services, communication supply services or power supply services;
 - b. Accept your products or services;
 - c. Manufacture products for delivery to your customers under contract of sale; or
 - d. Attract customers to your business.
- The "dependent property" must be located in the coverage territory of this Coverage Form.
14. "Discover" or "Discovered" means:
- a. The time when you first become aware of facts which would cause a reasonable person to assume that a loss of a type covered by this policy has been or will be incurred, regardless of when the act or acts causing or contributing to such loss occurred, even though the exact amount or details may not be known.
 - b. "Discover" or "Discovered" also means the time when you first receive notice of an actual or potential claim in which it is alleged that you are liable to a third party under circumstances which, if true, would constitute a loss under this policy.
15. "Electronic circuitry" means microelectronic components, including but not limited to circuit boards, integrated circuits, computer chips and disk drives.
16. "Electronic circuitry impairment"
- a. "Electronic circuitry impairment" means a fortuitous event involving "electronic circuitry" within "covered equipment" that causes the "covered equipment" to suddenly lose its ability to function as it had been functioning immediately before such event. This definition is subject to the conditions specified in b., c. and d. below.
 - b. We shall determine that the reasonable and appropriate remedy to restore such "covered equipment's" ability to function is the replacement of one or more "electronic circuitry" components of the "covered equipment."
 - c. The "covered equipment" must be owned or leased by you, or operated under your control.
 - d. None of the following is an "electronic circuitry impairment":
 - (1) Any condition that can be reasonably remedied by:
 - (a) Normal maintenance, including but not limited to replacing expendable parts, recharging batteries or cleaning;
 - (b) Rebooting, reloading or updating software or firmware; or
 - (c) Providing necessary power or supply.
 - (2) Any condition caused by or related to:
 - (a) Incompatibility of the "covered equipment" with any software or equipment installed, introduced or networked within the prior 30 days; or
 - (b) Insufficient size, capability or capacity of the "covered equipment."



- (3) Exposure to adverse environmental conditions, including but not limited to change in temperature or humidity, unless such conditions result in an observable loss of functionality. Loss of warranty shall not be considered an observable loss of functionality.
17. "Electronic data" means files, documents, information and "programs and applications" in an electronic format and that are stored on "media".
18. "Electronic Vandalism" means "computer hacking", "computer virus" or a "denial of service attack". "Electronic vandalism" does not include the "theft" of any property or services.
19. "Employee" or "employees" means:
- a. Any natural person or persons:
 - (1) While in your service and for 30 days after termination of service; and
 - (2) Who you compensate directly by salary, wages or commissions; and
 - (3) Who you have the right to direct and control while performing services for you;
 - b. Any natural person who is furnished temporarily to you:
 - (1) To substitute for a permanent employee, as defined in paragraph a. above, who is on leave; or
 - (2) To meet seasonal or short-term workload conditions;
 - c. Any natural person or persons who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary "employee" as defined in paragraph b. above;
 - d. Any natural person who is a former "employee", partner, "manager", director or trustee retained as a consultant while performing services for you; or
 - e. Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody or property outside the described premises;
 - f. Any natural person who is:
 - (1) A trustee, officer, employee, administrator or manager, except an administrator or manager who is an independent contractor, of any "employee benefit plan"; and
- (2) A director or trustee of yours while that person is engaged in handling "funds" or "other property" of any "employee benefit plan";
- "Employee" does not mean any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character not specified in paragraph 14. of this section.
20. "Financial institution" means:
- a. With regard to **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverage, s. Money and Securities**:
 - (1) A bank, savings bank, savings and loan association, trust company, credit union or similar depository institution; or
 - (2) An insurance company.
 - b. **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverage, hh. Computer and Funds Transfer Fraud**:
 - (1) A bank, savings bank, savings and loan association, trust company, credit union or similar depository institution;
 - (2) An insurance company; or
 - (3) A stock brokerage firm or investment company.
 - c. Other than **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, s. Money and Securities and hh. Computer and Funds Transfer Fraud**, any financial institution.
21. "Fine arts" means paintings, etchings, pictures, tapestries, rare art glass, art glass windows, valuable rugs, statuary, sculptures, "antique" jewelry, bric-a-brac, porcelains and similar property of rarity, historical value or artistic merit.
22. "Finished stock" means stock you have manufactured. "Finished stock" also includes whiskey and alcoholic products being aged.
- "Finished stock" does not include "stock" you have manufactured that is held for sale on the premises of any retail outlet.
23. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas due to:
- a. Surface water or waves, tides, tidal waves, tsunami, overflow of any body of water or their spray, all whether driven by wind or not (including storm surge);

- b. The unusual or rapid accumulation of runoff of surface waters from any source;
 - c. Mudslides or mudflows which are caused by "flood" water. A mudslide or mudflow involves a river of liquid and flowing mud on the surface of normally dry land areas as when earth is carried by a current of water and deposited along the path of the current.
 - d. The release of water impounded by a dam, levee, dike, seawall or "flood" control device, whether driven by wind or not (including storm surge).
When a "flood" is a continuous or protracted event it will constitute a single "flood" occurrence.
24. "Forgery" means the signing of the name of another person or organization with intent to deceive; it does not mean a signature which consists in whole or in part of one's own name signed with or without authority, in any capacity, for any purpose.
25. "Fraudulent instruction" means:
- a. An electronic, telegraphic, cable, teletype, tele facsimile or telephone instruction which purports to have been transmitted by you, but which was in fact fraudulently transmitted by someone else without your knowledge or consent;
 - b. A written instruction (other than those described in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, k. Forgery or Alteration**) issued by you, which was forged or altered by someone other than you without your knowledge or consent or which purports to have been issued by you, but was in fact fraudulently issued without your knowledge or consent.
26. "Funds" means "money" and "securities".
27. "Fungi" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by "fungi".
28. "Hardware" means a network of electronic machine components (microprocessors) capable of accepting instructions and information, processing the information according to the instructions, and producing desired results. "Hardware" includes but is not limited to:
- a. Mainframe and mid-range computers and servers;
 - b. Personal computers and workstations;
 - c. Portable electronic devices. Portable electronic devices include laptops, tablets, e-readers, smartphones or other lightweight, hand-held or wearable devices capable of storing, retrieving and processing data; and
 - d. Peripheral data processing equipment, including but not limited to printers, keyboards, monitors, and modems.
- "Hardware" does not mean electronic items that are not similar to the items listed in a., b., c. and d. above. "Hardware" does not include:
- e. Diagnostic equipment;
 - f. Electronic items that contain a computer to perform functions other than "hardware"; and
 - g. Peripheral data processing equipment valued more than the "hardware" itself.
29. "Hazardous substance" means any substance that is hazardous to health or has been declared to be hazardous to health by a governmental agency.
30. "In transit" means in the course of shipment from or to the premises shown in the Declarations. It includes such shipments while temporarily stopped or delayed, incidental to the delivery.
31. "Manager" or "managers" means a person or persons serving in a directorial capacity for a limited liability company (LLC).
32. "Media" means an instrument that is used with "hardware" and on which "electronic data", "programs and applications", and "proprietary programs" can be recorded or stored. "Media" includes, but is not limited to, films, tapes, cards, discs, drums, cartridges, cells, DVDs, CD-ROMs and other portable data devices.
33. "Member" or "Members" means an owner of a limited liability company represented by its membership interest, who also may serve as a "manager".
34. "Messenger" means you, or a relative of yours, or any of your partners or "members", or any "employee" while having care and custody of property away from the described premises.
35. "Money" means:
- a. Currency, coins and bank notes in current use and having a face value;
 - b. Traveler's checks and money orders held for sale to the public; and
 - c. In addition, includes:

- (1) For the purposes of **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, p. Employee Theft including ERISA Compliance and k. Forgery or Alteration**, deposits in your account at any "financial institution"; and
 - (2) For the purposes of **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverage hh. Computer and Funds Transfer Fraud**, deposits in your account at a "financial institution" as defined in **SECTION I - PROPERTY, G. Property Definitions**, paragraph 19.b..
36. "One equipment breakdown" means: If an initial "accident" or "electronic circuitry impairment" causes other "accidents" or "electronic circuitry impairments," all will be considered "one equipment breakdown." All "accidents" or "electronic circuitry impairments" that are the result of the same "accident" or "electronic circuitry impairment" will be considered "one equipment breakdown."
 37. "Operations" means your business activities occurring at the described premises.
 38. "Other property" means tangible property other than "money" and "securities" that has intrinsic value. "Other property" does not include computer programs, "electronic data" or any property specifically excluded under this Coverage Form.
 39. "Payment processing device" means any electronic device used to process credit, debit or charge card transactions, including but not limited to, digital pen pad devices, PIN pad devices, Automatic Teller Machines (ATMs), credit card processing machines.
 40. "Payroll expense":
 - a. Means payroll expenses for all your "employees" except:
 - (1) Officers;
 - (2) Executive;
 - (3) Department Managers;
 - (4) "Employees" under contract; and
 - (5) Additional Exemptions shown in the Declarations as:
 - (a) Job classifications; or
 - (b) "Employees".
 - b. Includes:
 - (1) Payroll;
 - (2) Employee Benefits, if directly related to payroll;
 - (3) FICA payments you pay;
 - (4) Union dues you pay; and
 - (5) Workers' Compensation premiums.
 41. "Period of Restoration"
 - a. Means the period of time that:
 - (1) Begins:
 - (a) After the number of hours shown as the Business Income Waiting Period in the Declarations after the time of direct physical loss or damage for Business Income Coverage; or
 - (b) Immediately after the time of direct physical loss or damage for Extra Expense Coverage; caused by or resulting from any Covered Cause of Loss at the described premises; and
 - (2) Ends on the earlier of:
 - (a) The date when the property at the described premises should be repaired, rebuilt or replaced (to a condition permitting occupancy) with reasonable speed and similar quality; or
 - (b) The date when business is resumed at a new permanent location; or
 - (c) Exhaustion of the number of consecutive months as shown on the Policy Declarations Page.
 - b. Does not include any increased period required due to the enforcement of any ordinance or law that:
 - (1) Regulates the construction, use or repair, or requires the tearing down of any property; or
 - (2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of "pollutants".

The expiration date of this policy will not cut short the "period of restoration".
 42. "Perishable goods" means personal property:
 - a. Maintained under controlled temperature or humidity conditions for preservation; and
 - b. Susceptible to loss or damage if the controlled temperature or humidity conditions change.

43. "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.
44. "Programs and applications" means operating programs and applications that you purchase and that are:
- Stored on "media"; or
 - Pre-installed and stored in "hardware".
- Applications include, but are not limited to, programs for word processing, spreadsheet calculations, and graphic design.
45. "Proprietary programs" means proprietary operating programs and applications that you developed or that you had developed specifically for use in your "operations" and that are:
- Stored on "media"; or
 - Installed and stored in "hardware".
46. "Protection and control equipment" means:
- Air conditioning or other cooling equipment used exclusively in the operation of the "hardware";
 - Fire protection equipment used for the protection of the "hardware", including automatic and manual fire suppression equipment and smoke and heat detectors; and
 - Uninterruptible power supply system, line conditioner, and voltage regulator.
47. "Rental Value" means Business Income that consists of:
- New Income (Net Profit or Loss before income taxes) that would have been earned or incurred as rental income from tenant occupancy of the premises described in the Declarations as furnished and equipped by you, including fair rental value of any portion of the described premises which is occupied by you; and
 - Continuing normal operating expenses incurred in connection with that premises, including:
 - Payroll; and
 - The amount of charges which are the legal obligation of the tenant(s) but would otherwise be your obligations.
48. "Securities" means negotiable and non-negotiable instruments or contracts representing either "money" or "other property" and includes:
- Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
 - Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you; but does not include "money".
49. "Software" means;
- "Media";
 - "Electronic Data";
 - "Programs and applications"; and
 - "Proprietary programs".
50. "Specified Causes of Loss" means the following:
- Fire; lightning; explosion, windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.
- Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
 - The cost of filling sinkholes; or
 - Sinking or collapse of land into man-made underground cavities.
 - Falling objects does not include loss of or damage to:
 - Personal property in the open; or
 - The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.
 - Water damage means
 - Accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of any part of a system or appliance (other than a sump system including its related equipment and parts) containing water or steam; and
 - Accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of a municipal potable water supply system or municipal



sanitary sewer system, if the breakage or cracking is caused by wear or tear.

But water damage does not include loss or damage otherwise excluded in **SECTION I - PROPERTY, B. Exclusions**, paragraph 1. **g. Water**. Therefore, for example, there is no coverage in the situation in which discharge or leakage of water results from breaking apart of cracking of a pipe which was caused by or related to weather-induced "flood" water, even if wear and tear contributed to the breakage or cracking. As another example, and also in accordance with the terms of the Water Exclusion, there is no coverage for loss or damage caused by or related to weather-induced "flood" water which follows or is exacerbated by pipe breakage or cracking attributable to wear and tear.

To the extent that accidental discharge or leakage of water falls within the criteria set forth in paragraphs (1) or (2) above of this definition of "specified causes of loss", such water is not subject to the provisions of **SECTION I - PROPERTY, B. Exclusions**, paragraph 1., **g. Water**, which preclude coverage for surface water or water under the ground surface.

- 51. "Stock" means merchandise held in storage or for sale, raw materials and in process or finished goods, including supplies used in their packing or shipping.
- 52. "Suspension" means:
 - a. The partial slowdown or complete cessation of your business activities; or
 - b. Part or all of the described premises is rendered untenable, if coverage for Business Income applies.
- 53. "Telephonic services" means use of your:
 - a. Telephone services;
 - b. Telephone credit cards; or
 - c. Telephone access cards.
- 54. "Theft" means the unlawful taking of property to the deprivation of the insured.
- 55. "Transfer account" means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of "money" and "securities" by means of:
 - a. Electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or

- b. Written instructions (other than those described in **SECTION I - PROPERTY, A. Coverage, 5. Additional Coverages, k. Forgery or Alteration**) establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic funds transfer system.

56. "Valuable papers and records" means:

- a. Inscribed, printed or written:
 - (1) Documents;
 - (2) Manuscripts; and
 - (3) Records;including abstracts, books, deeds, drawings, films, maps or mortgages;
- b. If you are a Printer, Publisher or Graphic Artist by trade, "valuable papers and records" means negatives, positives, artwork, separations, plates, dies, molds, forms, stock manuscripts and other similar property usual to the graphic arts, printing or publishing industry, including those which exist on electronic or magnetic "media", other than prepackaged software programs.

But "valuable papers and records" does not mean "money" or "securities".

SECTION II - LIABILITY

A. Coverages

1. Business Liability

- a. We will pay those sums the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury", to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" or any offense and settle any claim or "suit" that may result. But:
 - (1) The amount we will pay for damages is limited as described in **SECTION II - LIABILITY, D - Liability and Medical Expenses Limits of Insurance**; and
 - (2) Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of

judgments, settlements or medical expenses.

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

b. This insurance applies:

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

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

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

c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under **C. Who Is An Insured**, paragraph 1. or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of "bodily injury" or "property damage" after the end of the policy period.

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

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

(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

f. Coverage Extension - Supplementary Payments

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

(a) All expenses we incur.

(b) Up to \$2500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.

(c) The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance. We do not have to furnish these bonds.

(d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

(e) All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.

(f) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the Limit of Insurance, we will not pay any

prejudgment interest based on that period of time after the offer.

- (g) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance described in **SECTION II - LIABILITY, D. Liability and Medical Expenses Limits of Insurance.**

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

- (a) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

- (b) This insurance applies to such liability assumed by the insured;

- (c) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";

- (d) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

- (e) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

- (f) The indemnitee:

- (i) Agrees in writing to:

- 1) Cooperate with us in the investigation, settlement or defense of the "suit";
- 2) Immediately send us copies of any demands, notices, summonses or

legal papers received in connection with the "suit";

- 3) Notify any other insurer whose coverage is available to the indemnitee; and

- 4) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

- (ii) Provides us with written authorization to:

- 1) Obtain records and other information related to the "suit"; and

- 2) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of **SECTION II - LIABILITY, B. Exclusions, 1. Applicable to Business Liability Coverage, b. Contractual Liability**, paragraph (2), such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

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

- (g) We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or

- (h) The conditions set forth above, or the terms of the agreement described in Paragraph (2)(f) above are no longer met.

2. Medical Expenses

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

- (1) On premises you own or rent;

- (2) On ways next to premises you own or rent; or
- (3) Because of your operations; provided that:
 - (a) The accident takes place in the "coverage territory" and during the policy period;
 - (b) The expenses are incurred and reported to us within one year of the date of the accident; and
 - (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable Limits of Insurance as described in **D. Liability and Medical Expenses Limits of Insurance.**
- c. We will pay reasonable expenses for:
 - (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

B. Exclusions

1. Applicable To Business Liability Coverage

This insurance does not apply to:

a. Expected or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the

execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

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

c. Liquor Liability

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

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

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (4) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (5) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in paragraphs (1), (2) or (3) above.

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

For the purpose of this exclusion, permitting a person to bring alcoholic beverages on your premises for consumption on your premises, whether or



not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation and Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar local, state, federal or foreign law or regulation.

e. Employer's Liability

"Bodily Injury" to:

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

This exclusion applies:

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

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

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a) At or from any premises, site or location, which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the

building's occupants or their guests;

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

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

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or

- (ii) Any person or organization for whom you may be legally responsible; or

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions

necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

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

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

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

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

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

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

g. Aircraft, Auto or Watercraft

(1) Unmanned Aircraft

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading and unloading".

This paragraph g. (1) applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" or the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

This paragraph g. (1) does not apply to:

(a) The use of another's advertising idea in your "advertisement"; or

(b) Infringing upon another's copyright, trade dress or slogan in your "advertisement".

(2) Aircraft (Other Than Unmanned Aircraft), Auto or Watercraft

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

This paragraph **g. (2)** applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" or the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This paragraph **g. (2)** does not apply to:

- (a) A watercraft while ashore on premises you own or rent;
- (b) A watercraft you do not own that is:
 - (i) Less than 51 feet long; and
 - (ii) Not being used to carry persons or property for a charge;
- (c) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (d) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft (other than "unmanned-aircraft") or watercraft; or
- (e) "Bodily injury" or "property damage" arising out of:
 - (i) The operation of machinery or equipment that is 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 or motor vehicle registration law where it is licensed or principally garaged; or
 - (ii) The operation of any of the following machinery or equipment:
 - 1) Cherry pickers and similar devices mounted on automobile or truck

chassis and used to raise or lower workers; and

- 2) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-servicing equipment; or

(f) An aircraft (other than "unmanned aircraft") that is:

- (i) Chartered by, loaned to, or hired by you with a paid crew; and
- (ii) Not owned by any insured.

h. Mobile Equipment

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

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

i. War

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

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

j. Professional Services

"Bodily injury", "property damage", "personal and advertising injury" caused by the rendering of or failure to render any professional service, advice or instruction:

- (1) By you; or
- (2) On your behalf; or
- (3) From whom any of you assumed liability by reason of a contract or agreement,

regardless of whether any such service, advice or instruction is ordinary to any insured's profession.

Professional services include but are not limited to:

- (4) Legal, accounting or advertising services, notary, title abstract, tax preparation, real estate, stockbroker, publishing, architects or insurance services;
- (5) Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (6) Supervisory, inspection or engineering services;
- (7) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (8) Any health or therapeutic service treatment, advice or instruction;
- (9) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming, including use or exposure to any sun lamp, tanning booth or other similar appliance;
- (10) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- (11) Body piercing services;
- (12) Services in the practice of pharmacy;
- (13) Management, Human Resource, Testing, Media or Public Relations consulting services.

This exclusion applies even if a claim alleges negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or failure to render any professional service.

k. Damage to Property

"Property damage" to:

- (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other

person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractor or subcontractor working directly or indirectly on your behalf is performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

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

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

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

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

i. Damage to Your Product

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

m. Damage to Your Work

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

This exclusion does not apply if the damaged work or the work out of which

the damage arises was performed on your behalf by a subcontractor.

n. Damage to Impaired Property or Property Not Physically Injured

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

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

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

o. Recall of Products, Work or Impaired Property

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

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

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

p. Aircraft Products, Grounding and Testing

- (1) "Aircraft products" or reliance upon any representation or warranty made with such product;
- (2) The "grounding" of any aircraft; or
- (3) The "testing" of any aircraft.

For purposes of this Exclusion, the following definitions apply:

- (4) "Aircraft Products" means:
 - (a) Aircraft, including but not limited to missiles, spacecraft, or any other aircraft goods or products you manufacture, sell, handle or distribute;
 - (b) Aircraft and any ground support or control equipment used in connection therewith;

- (c) Any product provided by the insured and installed or used in connection with any aircraft;

- (d) Any tooling used in respect to any aircraft;

- (e) Training and navigational aids, instructions, manuals, blueprints, engineering or other data in connection with any aircraft;

- (f) Any advice, service or labor supplied with any aircraft; or

- (g) Services you or others trading under your name provide or recommend for use in the manufacture, repair, operation, maintenance or use of any aircraft.

- (5) "Grounding" means the withdrawal of one or more aircraft from flight operations or the imposition of speed, passenger or load restrictions on such aircraft, due to the existence of or alleged or suspected existence of any defect, fault or condition:

- (a) In such aircraft or any part sold, handled or distributed by you or that is manufactured, assembled or processed by any other person or organization according to your specifications, plans, suggestions, orders or drawings; or

- (b) With tools, machinery or other equipment furnished to such persons or organizations by you;

whether such withdrawn aircraft are owned or operated by the same or different persons or organizations.

"Grounding" shall be deemed to commence on the date of an "occurrence" which discloses the necessity of "grounding" or on the date an aircraft is first withdrawn from service because of such condition, whichever comes first.

- (6) "Testing" means examination, observation, evaluation or measuring of the performance of "aircraft products", while either in the air or on the ground.

q. Distribution of Material in Violation of Statutes

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

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any other laws, statutes, ordinances or regulations, that address, prohibit, or limit the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

r. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in paragraphs (1) or (2) above.

However, unless paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing

devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

Exclusions **c.**, **d.**, **e.**, **g.**, **h.**, and **k.**, **l.**, **m.**, **n.** and **o.** above do not apply to damage to premises while rented to you or temporarily occupied by you with permission of the owner. A separate Damage to Premises Rented to You Limit of Insurance applies to this coverage as described in **SECTION II - LIABILITY, D. Liability and Medical Expenses Limits of Insurance.**

2. Additional Exclusions Applicable Only to "Personal and Advertising Injury"

This insurance does not apply to:

a. Knowing Violation of Rights of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior to Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.



f. Breach of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality or Performance of Goods-Failure to Conform to Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Insureds in Media and Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web-sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to **F. Liability and Medical Expenses Definitions, 15. "Personal and Advertising Injury"**, paragraphs a., b. and c.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself considered the business of advertising, broadcasting, publishing or telecasting.

j. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

k. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) 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) 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".

l. Electronic Chatrooms or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns or over which the insured exercises control.

m. Infringement of Copyright, Patent, Trademark or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

n. Unauthorized Use of Another's Name of Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

3. Additional Exclusions Applicable to Medical Expenses Coverage Only

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury on Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation and Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for

the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletic Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products - completed operations hazard".

g. Otherwise Excluded

Otherwise Excluded under **SECTION II - LIABILITY, B. Exclusions, 1. Applicable To Business Liability Coverage.**

4. Additional Exclusions Applicable To Both Business Liability Coverage and Medical Expenses Coverage:

Nuclear Energy Liability Exclusion

This insurance does not apply:

(1) Under Business Liability Coverage, to "bodily injury" or "property damage":

(a) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(b) Resulting from the "hazardous properties" of "nuclear material" and with respect to which:

(i) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or

(ii) The insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

(2) Under Medical Expenses Coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear

material" and arising out of the operation of a "nuclear facility" by any person or organization.

(3) Under Business Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of the "nuclear material"; if:

(a) The "nuclear material":

(i) Is at any "nuclear facility" owned by, or operated by or on behalf of, an insured; or

(ii) Has been discharged or dispersed therefrom;

(b) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or

(c) The "bodily injury" or "property damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility"; but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion **(3)** applies only to "property damage" to such "nuclear facility" and any property thereat.

(4) As used in this exclusion:

(a) "By-product material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;

(b) "Hazardous properties" include radioactive, toxic or explosive properties;

(c) "Nuclear facility" means:

(i) Any "nuclear reactor";

(ii) Any equipment or device designed or used for:

1) Separating the isotopes of uranium or plutonium;

2) Processing or utilizing "spent fuel"; or

3) Handling, processing or packaging "waste";

(iii) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the



custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(iv) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

(d) "Nuclear material" means "source material", "special nuclear material" or "by-product material";

(e) "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

(f) "Property damage" includes all forms of radioactive contamination of property.

(g) "Source material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;

(h) "Special nuclear material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;

(i) "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor";

(j) "Waste" means any waste material:

(i) Containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content; and

(ii) Resulting from the operation by any person or organization of any "nuclear facility" included under paragraphs (i) and (ii) of the definition of "nuclear facility".

C. Who Is An Insured

1. If you are designated in the Declarations as:

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

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

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

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

(b) To the spouse, child, parent, brother or sister of that co-

"employee" as a consequence of paragraph (1) (a) above;

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

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

(2) "Property damage" to property:

- (a) Owned, occupied or used by; or

- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

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

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

- (1) With respect to liability arising out of the maintenance or use of that property; and

- (2) Until your legal representative has been appointed.

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

- 3. Any organization you newly acquire or form, acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

- b. Business Liability Coverage does not apply to:

- (1) "Bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

- (2) "Personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

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

D. Liability and Medical Expenses Limits of Insurance

- 1. The Limits of Insurance under **SECTION II - LIABILITY** shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

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

- 2. Subject to the Aggregate Limit identified in paragraph 5. below, the most we will pay for the sum of all damages because of all:

- a. "Bodily injury", "property damage" and medical expenses arising out of any one "occurrence"; and
- b. "Personal and advertising injury" sustained by any one person or organization;

is the Liability And Medical Expenses Limit shown in the Declarations.

- 3. Subject to the Liability And Medical Expenses Limit, the most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

- 4. The Damage to Premises Rented to You Limit shown in the Declarations is the most we will pay for damages because of "property damage" to any one premises while rented to you, or temporarily occupied by you with permission of the owner.

5. Aggregate Limits

- a. The most we will pay for:

- (1) All "bodily injury" and "property damage" that is included in the "products-completed operations hazard" is twice the Liability And Medical Expenses Limit.

- (2) All:

- (a) "Bodily injury" and "property damage" except damages because of "bodily injury" and



"property damage" included in the "products-completed operations hazard";

(b) Plus medical expenses;

(c) Plus all "personal and advertising injury" caused by offenses committed;

is twice the Liability And Medical Expenses Limit.

b. The Aggregate Limits of Insurance apply separately to each of your "locations" owned by or rented to you. "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

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

E. Liability and Medical Expenses General Conditions

1. Bankruptcy

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

2. Duties in the Event of Occurrence, Offense, Claim or Suit

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

(1) How, when and where the "occurrence" or offense took place;

(2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any Insured, you must:

(1) Immediately record the specifics of the claim or "suit" and the date received; and

(2) Notify us as soon as practicable.

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

c. You and any other involved Insured must:

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation, or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the Insured because of injury or damage to which this insurance may also apply.

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

3. Legal Action Against Us

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

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an Insured; or

b. To sue us on this policy unless all of its terms have been fully complied with.

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

4. Separation of Insureds

Except with respect to the Limits of Insurance under **SECTION II - LIABILITY**, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each Insured against whom claim is made or "suit" is brought.

F. Liability and Medical Expenses Definitions

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "Auto" means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

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

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. "Bodily injury" includes mental anguish or other mental injury resulting from "bodily injury".

4. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
- c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in paragraph a. above;
 - (2) The activities of a person whose home is in the territory described in paragraph a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in paragraph a. above or in a settlement we agree to.

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

6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work", or your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization.



Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

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

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in paragraph (2) above and supervisory, inspection or engineering services.

10. "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".

11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

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

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, on which are permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in paragraphs a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in paragraphs a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility

law or other motor vehicle insurance law in the state where they are licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
 - a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
 - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
 - f. The use of another's advertising idea in your "advertisement"; or
 - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
15. "Pollutants" mean 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.
16. "Products - completed operations hazard":
 - a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at the job site has been put to its intended use by any other person or organization other than another contractor or subcontractor working on the same project.

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

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage", "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "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.

20. "Unmanned aircraft" means an aircraft that is not:

- a. Designed;
- b. Manufactured; or
- c. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

21. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

22. "Your product":

a. Means:

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

- (a) You;
- (b) Others trading under your name; or
- (c) A person or organization whose business or assets you have acquired; and

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

b. Includes:

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

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

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

23. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2) The providing of or failure to provide warnings or instructions.

SECTION III - COMMON POLICY CONDITIONS (APPLICABLE TO SECTION I - PROPERTY AND SECTION II - LIABILITY)

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.

2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

a. 5 days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this policy:

- (1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:

- (a) Seasonal unoccupancy; or
- (b) Buildings in the course of construction, renovation or addition.

Buildings with 65% or more of the rental units or floor area vacant or unoccupied are considered unoccupied under this provision.

- (2) After damage by a covered cause of loss, permanent repairs to the building:

- (a) Have not started, and
- (b) Have not been contracted for, within 30 days of initial payment of loss.

(3) The building has:

- (a) An outstanding order to vacate;
- (b) An outstanding demolition order; or
- (c) Been declared unsafe by governmental authority.

(4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.

(5) Failure to:

- (a) Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or
- (b) Pay property taxes that are owed and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.

b. 10 days before the effective date of cancellation if we cancel for nonpayment of premium.

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

3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.

4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be

amended or waived only by endorsement issued by us and made a part of this policy.

C. Concealment, Misrepresentation or Fraud

This policy is void in any case of fraud by you as it relates to this policy at any time. It is also void if you or any other insured, at any time, intentionally conceals or misrepresents a material fact concerning:

- 1. This policy;
- 2. The Covered Property;
- 3. Your interest in the Covered Property; or
- 4. A claim under this policy.

D. Examination of Your Books and Records

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

E. Inspections and Surveys

1. We have the right but not the duty to:

- a. Make inspections and surveys at any time;
- b. Give you reports on the conditions we find; and
- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. We do not warrant that conditions:

- a. Are safe and healthful; or
- b. Comply with laws, regulations, codes or standards.

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

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

F. Insurance Under Two or More Coverages

If two or more of this policy's coverages apply to the same loss or damage, you may choose only one of these coverages to apply to that loss.



1. **SECTION I - PROPERTY**, if two or more of this coverage part's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.
2. **SECTION II - LIABILITY**, it is our stated intent that the various Coverage Parts, forms, endorsements or policies issued to the named insured by us, or any company affiliated with us, do not provide any duplication or overlap of coverage for the same claim, "suit", "occurrence", offense, accident, "wrongful act" or loss. We will not pay more than the actual amount of the loss or damage.

If this Coverage Part and any other Coverage Part, form, endorsement or policy issued to the named insured by us, or any company affiliated with us, apply to the same claim, "suit", occurrence, offense, accident, "wrongful act" or loss, the maximum Limit of Insurance under all such Coverage Parts, forms, endorsements or policies combined shall not exceed the highest applicable Limit of Insurance under any one Coverage Part, form, endorsement or policy.

This condition does not apply to any Excess or Umbrella Policy issued by us specifically to apply as excess insurance over this policy.

G. Liberalization

If we adopt any revision that would broaden the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

H. Other Insurance

1. SECTION I - PROPERTY

If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But, we will not pay more than the applicable Limit of Insurance of **SECTION I - PROPERTY**.

2. SECTION II - LIABILITY

If other valid and collectible insurance is available to the insured for a loss we cover under **SECTION II - LIABILITY**, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in paragraph c. below.

However, if you agree in a written contract, written agreement, or written permit that the insurance provided to any person or organization included as an Additional Insured under this Coverage Part is primary and non-contributory, we will not seek contribution from any other insurance available to that Additional Insured which covers the Additional Insured as a Named Insured except:

- (1) For the sole negligence of the Additional Insured; or
- (2) When the Additional Insured is an Additional Insured under another liability policy.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (b) That is Property Insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (c) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to **SECTION II - LIABILITY, Exclusion g. Aircraft, Auto or Watercraft**; and
- (2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under **SECTION II - LIABILITY** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the

insured's rights against all those other insurers.

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

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

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

e. Method of Sharing

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

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

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

I. Premiums

1. The first Named Insured shown in the Declarations:
 - a. Is responsible for the payment of all premiums; and
 - b. Will be the payee for any return premiums we pay.
2. The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation or anniversary of the effective date of this policy, we will compute the

premium in accordance with our rates and rules then in effect.

3. With our consent, you may continue this policy in force by paying a continuation premium for each successive one-year period. The premium must be:

- a. Paid to us prior to the anniversary date; and
- b. Determined in accordance with paragraph 2. above.

Our forms then in effect will apply. If you do not pay the continuation premium, this policy will expire on the first anniversary date that we have not received the premium.

4. Undeclared exposures or change in your business operation, acquisition or use of locations may occur during the policy period that is not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules then in effect.

J. Premium Audit

1. This policy is subject to audit if a premium designated as an advance premium is shown in the Declarations. We will compute the final premium due when we determine your actual exposures.
2. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
3. The first Named Insured must keep records of the information we need for premium computation and send us copies at such times as we may request.

K. Transfer of Rights of Recovery Against Others to Us

1. Applicable to **SECTION I - PROPERTY Coverage:**

If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:



- a. Prior to a loss to your Covered Property.
- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:
 - (1) Someone insured by this insurance;
 - (2) A business firm:
 - (a) Owned or controlled by you; or
 - (b) That owns or controls you; or
 - (3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

2. Applicable to **SECTION II - LIABILITY** Coverage:

If the Insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair such rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

We waive any right of recovery we may have against any person or organization with whom you have a written contract, permit or agreement to waive any rights of recovery against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".

This condition does not apply to Medical Expenses Coverage.

L. **Transfer of Your Rights and Duties Under This Policy**

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured. If you die, your rights and duties will be transferred to your legal representative but only while that legal representative is acting within the scope of their duties as your legal representative. Until your legal representative is appointed, anyone with proper temporary custody of your property will have your rights and duties but only with respect to that property.

This page intentionally left blank.

Attachment 4

This page intentionally left blank.

**AMENDMENT NO. 6
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS AMENDMENT NO. 6 to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Denise Duffy & Associates, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement with County on May 1, 2013 (hereinafter, "Agreement") to provide a Programmatic Biological Assessment (BA) and Initial Study (IS) for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan for Phases 1 and 2 (hereinafter, "Project") through April 23, 2014 for an amount not to exceed \$353,100; and

WHEREAS, Agreement was amended by the Parties on April 10, 2014 (hereinafter, "Amendment No. 1") to extend the term for one (1) additional year through April 23, 2015 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on June 13, 2014 (hereinafter, "Amendment No. 2", including Exhibit A-1 – Scope of Services/Payment Provisions) to increase the Agreement amount by \$193,571 which resulted in a total not to exceed amount of \$546,671 to revise the original scope of the Agreement to provide for a Focused Environmental Impact Report (EIR) (hereinafter, "services") for completion of Phase 2 of the Project with no extension to the term; and

WHEREAS, Agreement was amended by the Parties on April 23, 2015 (hereinafter, "Amendment No. 3") to extend the term for approximately fourteen (14) additional months through June 30, 2016 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on October 19, 2015 (hereinafter, "Amendment No. 4", including Exhibit A-2 – Scope of Services/Payment Provisions) to extend the term for six (6) additional months through December 31, 2016 and to increase the amount by \$277,883 which resulted in a total not to exceed amount of \$824,554; and

WHEREAS, Agreement was amended by the Parties on December 9, 2016 (hereinafter, "Amendment No. 5") to extend the term for eighteen (18) additional months through June 30, 2018 with no increase in the not to exceed amount; and

WHEREAS, the Draft EIR was released for public review on December 2, 2016; and

WHEREAS, due to delays in the ongoing coordination with landowners and stakeholders related to the environmental review process, completion of Phase 2 of the Project has not been completed; and

WHEREAS, additional time is necessary; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term for eighteen (18) additional months to December 31, 2019 with no associated dollar amount increase to allow CONTRACTOR to continue to provide tasks identified in the Agreement and as amended by this Amendment No. 6.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Revise "Task 8.1" to "Task 8.2.1" under Task 8, Optional Tasks, in Exhibit A-2 – Scope of Services/Payment Provisions of this Agreement.
2. In all places within the Agreement, any reference to Task 8.1 shall be deemed to be Task 8.1, NHPA Section 106 & Indian Trust Assets Compliance, and any reference to Task 8.2.1 shall be deemed to be Task 8.2.1, Additional Response and Revisions to Prepare Draft Final EIR.
3. Revise "PHASE 2 FY 15/16 Funds: ENVIRONMENTAL DOCUMENTATION CARLIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)" to "PHASE 2 FY 15/16 Funds: ENVIRONMENTAL DOCUMENTATION AND PERMITTING" under Paragraph A.1 of Section A, Scope of Services, in Exhibit A-2 – Scope of Services/Payment Provisions of this Agreement.

4. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from April 23, 2013 to December 31, 2019, unless sooner terminated pursuant to the terms of this Agreement.

5. Amend Section 8.02, "Indemnification for Design Professional Services Claims", under Paragraph 8, "Indemnification", to read as follows:

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 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 COUNTY, or defect in a design furnished by COUNTY, but in no event shall the amount of such CONTRACTOR's liability exceed such CONTRACTOR's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one or more defendants to any action involving such claim or claims against COUNTY is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.

6. Amend the Business automobile liability insurance sentence of Section 9.03 of Paragraph 9.0, "Insurance", to read as follows:

Business automobile liability insurance, covering all motor vehicles, including 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.
7. In all places within the Agreement, any reference to the County's address at 168 West Alisal Street, 2nd Floor, Salinas, California, 93901, is hereby replaced with 1441 Schilling Place, South 2nd Floor, Salinas, California, 93901-4527.
8. All other terms and conditions of the Agreement remain unchanged and in full force.
9. This Amendment No. 6 and all previous amendments which show the Schedule of Rates applicable until the effective date of this Amendment No. 6, shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
10. The recitals to this Amendment No. 6 are incorporated into the Agreement and this Amendment No. 6.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 6 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR*

By: _____

W. J. Stinner
For Contracts/Purchasing Officer
Deputy Purchasing Agent
County of Monterey

Date: _____

5/31/18

Approved as to Form and Legality

Office of the County Counsel-Risk Management

Charles J. McKee, County Counsel-Risk Manager

By: _____

Brian P. Briggs
Brian P. Briggs
Deputy County Counsel

Date: _____

5-29-18

Approved as to Fiscal Provisions

By: _____

[Signature]
Auditor/Controller

Date: _____

5-30-18

Approved as to Indemnity and Insurance Provisions

Office of the County Counsel-Risk Management

Charles J. McKee, County Counsel-Risk Manager

By: _____

Name: _____

Title: _____

Date: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managing members. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

Denise Duffy & Associates, Inc.

Contractor's Business Name

By: _____

Denise Duffy
(Signature of Chair, President or Vice President)

Its: _____

Denise Duffy, President

(Print Name and Title)

Date: _____

5/14/18

By: _____

Denise Duffy
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Its: _____

Denise Duffy, Secretary

(Print Name and Title)

Date: _____

5/14/18



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/24/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER SelectSolutions Insurance Services 1350 Carlsbad Avenue Suite 100 Walnut Creek CA 94596	CONTACT NAME: Diana Chau PHONE (A/C, No, Ext): (866)500-6359 FAX (A/C, No): (925)951-0077 E-MAIL ADDRESS: dianac@pplbselect.com												
INSURED Denise Duffy & Associates Inc. 947 CASS Street #5 Monterey CA 93940	INSURER(S) AFFORDING COVERAGE <table border="1"><tr><td>INSURER A: Citizens Insurance Company of America</td><td>NAIC # 31634</td></tr><tr><td>INSURER B: The Hanover American Insurance Company</td><td>38084</td></tr><tr><td>INSURER C: Continental Casualty Company</td><td>20443</td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER A: Citizens Insurance Company of America	NAIC # 31634	INSURER B: The Hanover American Insurance Company	38084	INSURER C: Continental Casualty Company	20443	INSURER D:		INSURER E:		INSURER F:	
INSURER A: Citizens Insurance Company of America	NAIC # 31634												
INSURER B: The Hanover American Insurance Company	38084												
INSURER C: Continental Casualty Company	20443												
INSURER D:													
INSURER E:													
INSURER F:													

COVERAGES

CERTIFICATE NUMBER: 17/18

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADOL INSD	BUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		OB3916991206	09/01/2017	09/01/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/PO/AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			OB3916991206	09/01/2017	09/01/2018	COMBINED SINGLE LIMIT (Ea accident) \$ INCL IN GL BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			OB3916991206	09/01/2017	09/01/2018	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	WZ39169906	09/01/2017	09/01/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	PROFESSIONAL LIABILITY			EEH276198480	11/05/2017	11/05/2018	PER CLAIM \$2,000,000 AGGREGATE \$2,000,000

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

Re: Carmel Lagoon Project. The County of Monterey, its Officers, Agents and Employees are named as additional insured (primary/non-contributory) on General Liability policy (Policy# OB39169912) if required by written contract per attached endorsement.

CERTIFICATE HOLDER

CANCELLATION

County of Monterey Resource Management Agency 188 W. Allsal St., 3rd Fl. Salinas CA 93901	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

© 1988-2015 ACORD CORPORATION. All rights reserved.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY SUPPLEMENTARY ENDORSEMENT

This endorsement modifies Insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

A. Additional Insured by Contract, Agreement or Permit

The following is added to **SECTION II - LIABILITY, C. Who Is An Insured:**

Additional Insured by Contract, Agreement or Permit

a. Any person or organization with whom you agreed in a written contract, written agreement or permit that such person or organization to add as an additional insured on your policy is an additional insured only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by your acts or omissions, or the acts or omissions of those acting on your behalf, but only with respect to:

(1) "Your work" for the additional insured(s) designated in the contract, agreement or permit including "bodily injury" or "property damage" included in the "products-completed operations hazard" only if this Coverage Part provides such coverage.

(2) Premises you own, rent, lease or occupy; or

(3) Your maintenance, operation or use of equipment leased to you.

b. The insurance afforded to such additional insured described above:

(1) Only applies to the extent permitted by law; and

(2) Will not be broader than the insurance which you are required by the contract, agreement or permit to provide for such additional insured.

(3) Applies on a primary basis if that is required by the written contract, written agreement or permit.

(4) Will not be broader than coverage provided to any other insured.

(5) Does not apply if the "bodily injury", "property damage" or "personal and advertising injury" is otherwise excluded from coverage under this Coverage Part, including any endorsements thereto.

c. This provision does not apply:

(1) Unless the written contract or written agreement was executed or permit was issued prior to the "bodily injury", "property damage", or "personal

injury and advertising injury".

(2) To any person or organization included as an insured by another endorsement issued by us and made part of this Coverage Part.

(3) To any lessor of equipment:

(a) After the equipment lease expires; or

(b) If the "bodily injury", "property damage", or "personal and advertising injury" arises out of sole negligence of the lessor

(4) To any:

(a) Owners or other interests from whom land has been leased if the "occurrence" or offense takes place or the offense is committed after the lease for the land expires; or

(b) Managers or lessors of premises if:

(i) The "occurrence" takes place or the offense is committed after you cease to be a tenant in that premises; or

(ii) The "bodily injury", "property damage", "personal injury" or "advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor.

(5) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" or the offense which caused the "personal and advertising injury" involved the rendering of or failure to render any professional services by or for you.

d. With respect to the insurance afforded to these additional insureds, the following is added to **SECTION II - LIABILITY, D. Liability and Medical Expense Limits of Insurance:**

The most we will pay on behalf of the additional insured for a covered claim is the lesser of the amount of insurance:

1. Required by the contract, agreement or permit described in Paragraph a.; or
2. Available under the applicable Limits of Insurance shown in the Declarations.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations

B. Aggregate Limits of Insurance per Project or per Location

The following changes are made to **SECTION II - LIABILITY**:

1. The following is added to **SECTION II - LIABILITY, D. Liability and Medical Expenses Limits of Insurance**, paragraph 4:

The Aggregate Limits of Insurance apply separately to each of "your projects" or each "location" listed in the Declarations.

2. For the purpose of coverage provided by this endorsement only, the following is

added to **SECTION II - LIABILITY, F. Liability And Medical Expenses Definitions**:

1. "Your project" means:
 - a. Any premises, site or "location" at, on, or in which "your work" is not yet completed; and
 - b. Does not include any "location" listed in the Declarations.
2. "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.



1. **SECTION I - PROPERTY**, if two or more of this coverage part's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.
2. **SECTION II - LIABILITY**, it is our stated intent that the various Coverage Parts, forms, endorsements or policies issued to the named insured by us, or any company affiliated with us, do not provide any duplication or overlap of coverage for the same claim, "suit", "occurrence", offense, accident, "wrongful act" or loss. We will not pay more than the actual amount of the loss or damage.

If this Coverage Part and any other Coverage Part, form, endorsement or policy issued to the named insured by us, or any company affiliated with us, apply to the same claim, "suit", occurrence, offense, accident, "wrongful act" or loss, the maximum Limit of Insurance under all such Coverage Parts, forms, endorsements or policies combined shall not exceed the highest applicable Limit of Insurance under any one Coverage Part, form, endorsement or policy.

This condition does not apply to any Excess or Umbrella Policy issued by us specifically to apply as excess insurance over this policy.

G. Liberalization

If we adopt any revision that would broaden the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

H. Other Insurance

1. SECTION I - PROPERTY

If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But, we will not pay more than the applicable Limit of Insurance of **SECTION I - PROPERTY**.

2. SECTION II - LIABILITY

If other valid and collectible insurance is available to the insured for a loss we cover under **SECTION II - LIABILITY**, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in paragraph c. below.

However, if you agree in a written contract, written agreement, or written permit that the insurance provided to any person or organization included as an Additional Insured under this Coverage Part is primary and non-contributory, we will not seek contribution from any other insurance available to that Additional Insured which covers the Additional Insured as a Named Insured except:

- (1) For the sole negligence of the Additional Insured; or
- (2) When the Additional Insured is an Additional Insured under another liability policy.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (b) That is Property Insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (c) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to **SECTION II - LIABILITY, Exclusion g. Aircraft, Auto or Watercraft**; and
- (2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under **SECTION II - LIABILITY** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the

insured's rights against all those other insurers.

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

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

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

e. Method of Sharing

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

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

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

i. Premiums

1. The first Named Insured shown in the Declarations:
 - a. Is responsible for the payment of all premiums; and
 - b. Will be the payee for any return premiums we pay.
2. The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation or anniversary of the effective date of this policy, we will compute the

premium in accordance with our rates and rules then in effect.

3. With our consent, you may continue this policy in force by paying a continuation premium for each successive one-year period. The premium must be:

- a. Paid to us prior to the anniversary date; and
- b. Determined in accordance with paragraph 2. above.

Our forms then in effect will apply. If you do not pay the continuation premium, this policy will expire on the first anniversary date that we have not received the premium.

4. Undeclared exposures or change in your business operation, acquisition or use of locations may occur during the policy period that is not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules then in effect.

J. Premium Audit

1. This policy is subject to audit if a premium designated as an advance premium is shown in the Declarations. We will compute the final premium due when we determine your actual exposures.
2. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
3. The first Named Insured must keep records of the information we need for premium computation and send us copies at such times as we may request.

K. Transfer of Rights of Recovery Against Others to Us

1. Applicable to **SECTION I - PROPERTY Coverage:**

If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:



- a. Prior to a loss to your Covered Property.
- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:
 - (1) Someone Insured by this insurance;
 - (2) A business firm:
 - (a) Owned or controlled by you; or
 - (b) That owns or controls you; or
 - (3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

2. Applicable to **SECTION II - LIABILITY** Coverage:

If the Insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The Insured must do nothing after loss to impair such rights. At our request, the Insured will bring "suit" or transfer those rights to us and help us enforce them.

We waive any right of recovery we may have against any person or organization with whom you have a written contract, permit or agreement to waive any rights of recovery against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".

This condition does not apply to Medical Expenses Coverage.

L. **Transfer of Your Rights and Duties Under This Policy**

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured. If you die, your rights and duties will be transferred to your legal representative but only while that legal representative is acting within the scope of their duties as your legal representative. Until your legal representative is appointed, anyone with proper temporary custody of your property will have your rights and duties but only with respect to that property.

Attachment 5

This page intentionally left blank.



Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Agreement No.: A-12442

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

- a. Approved Amendment No. 5 to Professional Services Agreement No. A-12442 with Denise Duffy & Associates, Inc. to continue to provide services associated with completion of an Environmental Impact Report (EIR) for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan (Request for Proposals No. 2012-CRL-1) for Phases 1 and 2 to extend the expiration date from December 31, 2016 for eighteen (18) additional months through June 30, 2018, for a revised term from April 23, 2013 to June 30, 2018 with no change to the Agreement's not to exceed total amount of \$824,554;
- b. Authorized the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 5 to Professional Services Agreement No. A-12442; and
- c. Authorized the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute future amendments to Professional Services Agreement No. A-12442 to extend the term beyond the original term authorized in Request for Proposals No. 2012-CRL-1 where the amendments do not significantly alter the scope of work or change the approved Agreement amount. Permit Type: PD060228/Carmel Lagoon Area (REF120051). Focused Environmental Impact Report (EIR) for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan (Request for Proposals (RFP) No. 2012-CRL-1).

PASSED AND ADOPTED on this 6th day of December 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 79 for the meeting on December 6, 2016.

Dated: December 8, 2016
File ID: A 16-369

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

By Donna Hancock
Deputy

**AMENDMENT NO. 5
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS AMENDMENT NO. 5 to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Denise Duffy & Associates, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement with County on May 1, 2013 (hereinafter, "Agreement") to provide a Programmatic Biological Assessment (BA) and Initial Study (IS) for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan for Phases 1 and 2 (hereinafter, "Project") through April 23, 2014 for an amount not to exceed \$353,100; and

WHEREAS, Agreement was amended by the Parties on April 10, 2014 (hereinafter, "Amendment No. 1") to extend the term for one (1) additional year through April 23, 2015 with no increase in the Agreement's not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on June 13, 2014 (hereinafter, "Amendment No. 2", including Exhibit A-1 – Scope of Services/Payment Provisions) to increase the Agreement amount by \$193,571 which resulted in a total not to exceed amount of \$546,671 to revise the original scope of the Agreement to provide for a Focused Environmental Impact Report (EIR) (hereinafter, "services") for completion of Phase 2 of the Project with no extension to the Agreement's term; and

WHEREAS, Agreement was amended by the Parties on April 23, 2015 (hereinafter, "Amendment No. 3") to extend the term for approximately fourteen (14) additional months through June 30, 2016 with no increase in the Agreement's not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on October 19, 2015 (hereinafter, "Amendment No. 4", including Exhibit A-2 – Scope of Services/Payment Provisions) to extend the term for six (6) additional months through December 31, 2016 and to increase the Agreement amount by \$277,883 which resulted in a total not to exceed amount of \$824,554; and

WHEREAS, services for the Project have not been completed due to delays in the cultural consultation, additional technical analysis and coordination with adjacent landowners; and

WHEREAS, additional time is necessary to allow CONTRACTOR to complete current services for the Project and further negotiate a scope to allow for completion of programmatic permitting requirements for the selected projects within the Project area; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term for eighteen (18) additional months to June 30, 2018 with no associated dollar amount increase to allow CONTRACTOR to continue to provide tasks identified in the Agreement and as amended by this Amendment No. 5.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from April 23, 2013 to June 30, 2018, unless sooner terminated pursuant to the terms of this Agreement.

2. Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Project name, Multi-Year Agreement (MYA) number 3000*844, and associated Delivery Order (DO) number, and an original hardcopy shall be sent to the following:

County of Monterey
Resource Management Agency (RMA) – Finance Division
168 West Alisal Street, 2nd Floor
Salinas, California 93901

Any questions pertaining to invoices under this Agreement shall be directed to the RMA Finance Division at (831) 755-4800.

3. All other terms and conditions of the Agreement remain unchanged and in full force.
4. This Amendment No. 5 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
5. The recitals to this Amendment No. 5 are incorporated into the Agreement and this Amendment No. 5.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 5 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

By: [Signature]
Contracts/Purchasing Officer

Date: 12-9-16

**Approved as to Form and Legality
Office of the County Counsel**

By: [Signature]
Mary Grace Perry
Deputy County Counsel

Date: 11-2-2016

Approved as to Fiscal Provisions

By: [Signature]
Auditor/Controller

Date: 12-16

Approved as to Indemnity, Insurance Provisions

By: _____
Risk Management

Date: _____

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

CONTRACTOR*

Denise Duffy & Associates, Inc.
Contractor's Business Name

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

Its: Denise Duffy, President
(Printed Name and Title)

Date: 10/27/16

By: [Signature]
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

Its: Denise Duffy, Secretary
(Printed Name and Title)

Date: 10/27/16



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/19/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER SelectSolutions Insurance Services 1350 Carlback Avenue Suite 100 Walnut Creek CA 94596	CONTACT NAME: Diana Chau PHONE (A/C No. Ext): (866) 500-6359 FAX (A/C No.): (925) 951-0077 E-MAIL ADDRESS: dianac@ppibselect.com														
INSURED Denise Duffy & Associates 947 Cass Street Suite 5 Monterey CA 93940	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td>INSURER A: Citizens Insurance Company of</td> <td>31534</td> </tr> <tr> <td>INSURER B: The Hanover American Insurance</td> <td>36064</td> </tr> <tr> <td>INSURER C: Continental Casualty Company</td> <td>20443</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Citizens Insurance Company of	31534	INSURER B: The Hanover American Insurance	36064	INSURER C: Continental Casualty Company	20443	INSURER D:		INSURER E:		INSURER F:	
INSURER(S) AFFORDING COVERAGE	NAIC #														
INSURER A: Citizens Insurance Company of	31534														
INSURER B: The Hanover American Insurance	36064														
INSURER C: Continental Casualty Company	20443														
INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES **CERTIFICATE NUMBER:** 16/17GL, BA, WC, CB, 15/16EO **REVISION NUMBER:**

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

EXCLUSIONS AND CONDITIONS OF COVERAGE												
INBR LTR	TYPE OF INSURANCE			ADDL SUBR INSD	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS			
A	<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY		X		OB3916991205	9/1/2016	9/1/2017	EACH OCCURRENCE	\$ 1,000,000		
	<input type="checkbox"/>	CLAIMS-MADE	<input checked="" type="checkbox"/>						OCCUR	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 500,000	
	<input type="checkbox"/>								MED EXP (Any one person)	\$ 5,000		
	<input type="checkbox"/>								PERSONAL & ADV INJURY	\$ 1,000,000		
	GEN'L AGGREGATE LIMIT APPLIES PER:								GENERAL AGGREGATE	\$ 2,000,000		
	<input type="checkbox"/>	POLICY	<input checked="" type="checkbox"/>						PROJECT	<input type="checkbox"/>	LOC	PRODUCTS - COMP/OP AGG
<input type="checkbox"/>	OTHER:								\$			
A	AUTOMOBILE LIABILITY					OB3916991205	9/1/2016	9/1/2017	COMBINED SINGLE LIMIT (Ea accident)	\$ INCL IN GL		
	<input type="checkbox"/>	ANY AUTO	<input type="checkbox"/>						SCHEDULED AUTOS	BODILY INJURY (Per person)	\$	
	<input type="checkbox"/>	ALL OWNED AUTOS							<input checked="" type="checkbox"/>	NON-OWNED AUTOS	BODILY INJURY (Per accident)	\$
	<input checked="" type="checkbox"/>	HIRED AUTOS								PROPERTY DAMAGE (Per accident)	\$	
	<input type="checkbox"/>										\$	
A	<input checked="" type="checkbox"/>	UMBRELLA LIAB	<input checked="" type="checkbox"/>	OCCUR			OB3916991205	9/1/2016	9/1/2017	EACH OCCURRENCE	\$ 3,000,000	
	<input type="checkbox"/>	EXCESS LIAB	<input type="checkbox"/>	CLAIMS-MADE						AGGREGATE	\$ 3,000,000	
	<input type="checkbox"/>	DED	<input checked="" type="checkbox"/>	RETENTION \$						0		
											\$	
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			Y/N	N/A	WZ3916990605	9/1/2016	9/1/2017	<input checked="" type="checkbox"/> PER STATUTE	<input type="checkbox"/> OTHER		
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)								<input checked="" type="checkbox"/>	E.L. EACH ACCIDENT	\$ 1,000,000	
	If yes, describe under DESCRIPTION OF OPERATIONS below									E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000	
										E.L. DISEASE - POLICY LIMIT	\$ 1,000,000	
C	PROFESSIONAL LIABILITY					EEH276198490	11/5/2015	11/5/2016	PER CLAIM	\$2,000,000		
									AGGREGATE	\$2,000,000		

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

Re: Carmel Lagoon Project. The County of Monterey, Its Officers, Agents and Employees are named as additional insured (primary) on General Liability policy if required by written contract per attached endorsement.

CERTIFICATE HOLDER

CANCELLATION

County of Monterey
 Resource Management Agency
 168 W. Alisal St., 3rd Fl.
 Salinas, CA 93901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

L Trevino/CHADIL

Leticia Trevino

© 1988-2014 ACORD CORPORATION. All rights reserved.

ACORD 25 (2014/01)

INS025(201401)

The ACORD name and logo are registered marks of ACORD

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY SUPPLEMENTARY ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

I. Additional Insured by Contract, Agreement or Permit

Under **SECTION II - LIABILITY, C. Who Is An Insured, Paragraph 4.** Is added as follows:

- a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

but only with respect to:

- (3) "Your work" for the additional insured(s) at the location designated in the contract, agreement or permit; or
- (4) Premises you own, rent, lease, control or occupy.

This insurance applies on a primary basis if that is required by the written contract, agreement or permit.

- b. This provision does not apply:

- (1) Unless the written contract or written agreement has been executed or permit has been issued prior to the "bodily injury", "property damage" or "personal and advertising injury";
- (2) To any person or organization included as an insured by an endorsement issued by us and made part of this Policy;
- (3) To any lessor of equipment:
 - (a) After the equipment lease expires; or
 - (b) If the "bodily injury", "property damage" or "personal and advertising injury" arises out of the sole negligence of the lessor;
- (4) To any:
 - (a) Owners or other interests from whom land has been leased which takes place after the lease for that land expires; or
 - (b) Managers or lessors of premises if:
 - (i) The occurrence takes place after you cease to be a tenant in that premises; or
 - (ii) The "bodily injury", "property damage" or "personal and advertising injury" arises out of structural alterations, new

construction or demolition operations performed by or on behalf of the manager or lessor; or

- (5) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services. This includes but is not limited to any professional services as an architect or engineer arising out of any construction agreement or activities under which any insured or anyone acting on any insured's behalf provides or provided service, advice, expertise or work. Construction includes, but is not limited to, the plan, conception, design, build, construct, assembly, development, safety, erection, formation, reconstruct, rehabilitation, repair, or any improvement made to real property. Construction also includes the hiring, supervision or management of any of these activities. However, this exclusion does not apply to liability arising out of an insured's presence at a jobsite that was not caused by professional activities listed in the above paragraph.

- c. Additional insured coverage provided by this provision will not be broader than coverage provided to any other insured.

- d. All other insuring agreements, exclusions, and conditions of the policy apply.

II. Additional Insured by Contract, Agreement or Permit - Primary and Non-contributory

The following is added to **SECTION III - COMMON POLICY CONDITIONS:**

M. Other Insurance

1. Additional Insureds

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **SECTION II - LIABILITY, Part C - Who Is An Insured**, is primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss we cover under **SECTION II - LIABILITY, Part A. Coverages, Paragraph 1., Business Liability** our obligations are limited as follows:

a. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the Additional Insured as a Named Insured.

We will not seek contribution from any other insurance available to the Additional Insured except:

- (1) For the sole negligence of the Additional Insured;
- (2) When the Additional Insured is an Additional Insured under another primary liability policy; or
- (3) When b.(2) below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in b.(3) below.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (b) That is Fire Insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;
 - (c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner; or
 - (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of SECTION II - LIABILITY, Part A. Coverages, 1. Business Liability.

When this insurance is excess, we will have no duty under SECTION II - LIABILITY, Part A. Coverages, 1. Business Liability to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

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

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

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

c. Method Of Sharing

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

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

III. Aggregate Limit of Insurance (Per Project)

- a. For purposes of the coverage provided by this endorsement, **D. Liability and Medical Expenses Limits of Insurance** under Section II - Liability is amended by adding the following:

The General Aggregate Limit under **D. Liability and Medical Expenses Limits of Insurance** applies separately to each of "your projects" or each location listed in the Declarations.

- b. For purposes of the coverage provided by this endorsement **F. Liability And Medical Expenses Definitions** under Section II - Liability is amended by adding the following:

a. "Your project" means:

- i. Any premises, site or location at, on, or in which "your work" is not yet completed; and
- ii. Does not include any location listed in the Declarations.

IV. Blanket Waiver of Subrogation

Paragraph K. **Transfer Of Rights Of Recovery Against Others To Us** in Section III - Common Policy Conditions is amended by the addition of the following:

We will waive any right of recovery we may have against any person or organization when you have agreed in a written contract, permit or agreement to waive any rights of recovery against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".



COUNTY OF MONTEREY

PURCHASE ORDER

ORDER DATE 01-10-2017

DO 3000 0000012070 Modified

IMPORTANT

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

VENDOR DENISE DUFFY & ASSOCIATES 947 Cass Street Ste 5 Monterey CA 93940	S H I P T O PLANNING & BLDG/ INSPECTION 168 W. ALISAL ST., 2ND FLOOR SALINAS CA 93901	B I L L T O PLANNING & BLDG/ ALISAL 168 W. ALISAL ST 2ND FLOOR SALINAS CA 93901
VENDOR NUMBER: CV000001806		F.O.B.:
DELIVERY DATE:		

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	UNIT PRICE	SALES TAX	EXTENDED PRICE
1	0.0		92642	PURCH DESC: AMENDMENT NO 5. TO THE PROFESSIONAL SERVICES AGREEMENT (PSA) (MYA 3000 844) BETWEEN DENISE DUFFY & ASSOCIATES, INC. AND THE COUNTY OF MONTEREY EXTENDS THE TERM OF THE PSA FROM DECEMBER 31, 2016 TO JUNE 30, 2018 WITH NO ASSOCIATED DOLLAR AMOUNT INCREASES FOR A TOTAL NOT TO EXCEED AMOUNT OF \$824,554 TO CONTINUE TO PROVIDE SERVICES ASSOCIATED WITH COMPLETION OF AN ENVIRONMENTAL IMPACT REPORT FOR PROJECTS LOCATED IN THE CARMEL RIVER LAGOON AREA AND CARMEL RIVER LAGOON RESTORATION AND MANAGEMENT PLAN FOR PHASES 1 AND 2 (RFP # 2012-CRL-1). THE TERM OF THIS PSA IS FROM APRIL 23, 2013 TO JUNE 30, 2018. THE TERM OF THIS DELIVERY ORDER (DO) IS VALID FROM JULY 1, 2016 TO JUNE 30, 2017.	.00	.00	150,000.00
				COMM LINE DESC: Env Svc (Not Otherwise Classified)			
				EXTENDED DESC: PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY - CARMEL RIVER LAGOON			
				MSDS: Not Required			
				404 - 3000 - 8174 - RMA015 - 6613 - - LRPLN CARMEL LAGOON	- 150000.00		
				92642	.00	.00	40,540.10
2	0.0			COMM LINE DESC: Env Svc (Not Otherwise Classified)			
				EXTENDED DESC: PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY - CARMEL RIVER LAGOON 16 Accrual			
				MSDS: Not Required			
				001 - 3000 - 8172 - RMA001 - 6613 - - LRPLN CARMEL LAGOON	- 40540.10		

THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY

ORDER TOTAL 190,540.10

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/cao/terms_conditions.html

TAX EXEMPTION INFORMATION:
FEDERAL EXCISE TAX EXEMPTION NUMBER 94-6000524

COUNTY BUYER INFORMATION
TELEPHONE:
EMAIL:

AUTHORIZED BY COUNTY OF MONTEREY
DEPUTIZED PURCHASING AGENT

Michael R. T...

PRINT DATE: 01/27/17

CONTRACTS/PURCHASING DIVISION
1488 Schilling Place, Salinas, CA 93901

PAGE NUMBER: 1 OF 1

Attachment 6

This page intentionally left blank.



Monterey County

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Agreement No.: A-12442

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

- a. Approved Amendment No. 4 to Professional Services Agreement No. A-12442 with Denise Duffy & Associates, Inc. to include new additional tasks to complete the California Environmental Quality Act (CEQA) documentation process which includes preparation of the First Administrative Draft Environmental Impact Report (EIR) and the Final EIR for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan (Request for Proposals (RFP) #2012-CRL-1) for Phases 1 and 2, in the amount of \$277,883 for a total amount not to exceed \$824,554, and extend the term to December 31, 2016; and
- b. Authorized the Contracts/Purchasing Officer or his designee to execute Amendment No. 4 to Professional Services Agreement No. A-12442 and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount. Permit Type: PD060228/Carmel Lagoon Area (REF120051) Focused Environmental Impact Report (EIR) for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan (Request for Proposals (RFP) #2012-CRL-1)

PASSED AND ADOPTED on this 13th day of October 2015, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 78 for the meeting on October 13, 2015.

Dated: October 13, 2015
File ID: A 15-346

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

By Denise Hancock
Deputy

**AMENDMENT NO. 4
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS AMENDMENT NO. 4 to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Denise Duffy & Associates, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement with County on May 1, 2013 (hereinafter, "Agreement") to provide a Programmatic Biological Assessment (BA) and Initial Study (IS) for projects located in the Carmel River Lagoon Area and a Carmel River Lagoon Restoration and Management Plan for Phases 1 and 2 (hereinafter, "Project"); and

WHEREAS, Agreement was amended by the Parties on April 10, 2014 (hereinafter, "Amendment No. 1") to extend the term to April 23, 2015, June 13, 2014 (hereinafter, "Amendment No. 2", including Exhibit A-1 – Scope of Services/Payment Provisions) to revise the original scope of the Agreement to provide for a Focused Environmental Impact Report (EIR) rather than a Programmatic BA and IS as the most efficient environmental document for completion of Phase 2 of the Project, and April 23, 2015 (hereinafter, "Amendment No. 3") to extend the term to June 30, 2016; and

WHEREAS, \$27,500 from Task 6.5, 1st Administrative Draft Environmental Impact Report (EIR)/Environmental Assessment (EA), is reallocated to a new task, Task 6.1.1 under Task 6.1, Coastal Engineering Analysis, Design and 30% Plans for Scenic Road Protection Study (SRPS) as included in Exhibit A-2 – Scope of Services/Payment Provisions of the Agreement; and

WHEREAS, additional time and funding are necessary to allow CONTRACTOR to complete the California Environmental Quality Act (CEQA) documentation process which includes preparation of the First Administrative Draft EIR that requires coastal engineering work associated with Scenic Drive, preparation of conceptual monitoring plan, and conceptual revision to the Interim Sandbar Management Program (ISMP), and the Final EIR which includes response to comments; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term of the Agreement to December 31, 2016 and to increase the amount by \$277,883 to allow CONTRACTOR to continue to provide tasks identified in the Agreement and as amended by this Amendment No. 4.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 1, "Services to be Provided" to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A, A-1 and A-2** in conformity with the terms of this Agreement.

2. Amend Paragraph 2, "Payments by County" to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1 and A-2**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$824,554.

3. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from April 23, 2013 to December 31, 2016, unless sooner terminated pursuant to the terms of this Agreement.

4. Amend paragraph 4, "Additional Provisions/Exhibits", by adding "Exhibit A-2, Scope of Services/Payment Provisions".

5. Exhibit A-2, attached hereto is hereby incorporated into the Agreement.

6. All other terms and conditions of the Agreement remain unchanged and in full force.

7. This Amendment No. 4, including Exhibit A-2, shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

8. The recitals to this Amendment No. 4 are incorporated into the Agreement and this Amendment No. 4.


IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 4 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

By: 
Contracts/Purchasing Officer

Date: 19 October 2015

**Approved as to Form and Legality
Office of the County Counsel**

By: 
Deputy County Counsel

Date: 9-25-15

Approved as to Fiscal Provisions

By: 
Auditor/Controller

Date: 9-25-15

Approved as to Indemnity, Insurance Provisions

By: _____
Risk Management

Date: _____

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

CONTRACTOR*

Denise Duffy & Associates, Inc.
Contractor's Business Name

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

Its: Denise Duffy, President
(Printed Name and Title)

Date: 9/23/15

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

Its: Denise Duffy, Secretary
(Printed Name and Title)

Date: 9/23/15

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

To Agreement by and between
County of Monterey, hereinafter referred to as "County"
and
Denise Duffy & Associates, Inc., hereinafter referred to as "DD&A"

A. SCOPE OF SERVICES

- A.1** DD&A shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

PHASE 2 Fiscal Year (FY) 13/14 Funds: ENVIRONMENTAL DOCUMENTATION CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)/NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Task 6.1: Coastal Engineering Analysis, Design and 30% Plans for Scenic Road Protection Study (SRPS)

Task 6.1.1 Due to unanticipated circumstances, additional planning level analysis for two (2) additional SRPS armoring alternatives is needed from Coastal Engineering (subcontractor) at a cost of \$25,000 plus \$2,500 administration fee (10%), for a total cost of \$27,500.

Task 6.5: 1st Administrative Draft Environmental Impact Report (EIR)/Environmental Assessment (EA)

Due to unanticipated circumstances additional work is needed under Task 6.1. A total cost of \$27,500 is subtracted from Task 6.5 and added to Task 6.1.1.

PHASE 2 FY 15/16 Funds: ENVIRONMENTAL DOCUMENTATION CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

1ST ADMINISTRATIVE DRAFT EIR

Task 6.2: Civil and Hydrological Engineering, Analysis, Design and 30% Plans for the Ecosystem Protection Barrier (EPB)

Task 6.2.2 Balance Hydrologics, Inc. (subcontractor) to prepare a conceptual Monitoring Plan for incorporation into the Delayed EPB Alternative at a cost of \$7,500, plus \$750 administration fee (10%) for a total cost of \$8,250.

Task 6.3: CEQA/NEPA Project and Alternatives Description

Task 6.3.1 CEQA/NEPA Alternatives – Rewrite and incorporate additional design work and proposed changes to the alternatives in the current project description at a total cost of \$19,250.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Task 6.5: 1st Administrative Draft Environmental Impact Report (EIR)

Task 6.5.1 1st Administrative Draft Environmental Impact Report (EIR) completion – Due to unanticipated circumstances, additional work funded under Task 6.1.1 (described above) results in a shortfall of funds to complete Task 6.5. A total of \$27,500 is needed to complete this task.

Task 6.5.2 Air Quality, Greenhouse Gas, and Noise Studies - Ambient Air Quality and Noise Consulting (subcontractor) to prepare air quality, greenhouse gas, and noise impact assessments for the project. Cost from subcontractor is \$16,385 plus \$1,639 DD&A administration fee (10%) for a total cost of \$18,024.

Task 7.3: Project Management

Task 7.3.1 Project Management for 1st Admin Draft EIR – DD&A has exhausted DD&A's budget for project management. This is a result of extensive communication and coordination with project team and project proponent related to controversy about the Preferred Alternative and the alternatives analysis. As the project continues to increase in controversy and may likely suffer from litigation in the future, the cost for DD&A to complete this task is \$6,977.

Total Cost Estimate for the completion of the 1st Administrative Draft EIR is \$80,000.

2ND ADMINISTRATIVE DRAFT EIR AND FINAL EIR

DD&A is currently contracted by the County to prepare the 1st Administrative Draft EIR under CEQA for the project.

The following scope and budget details the tasks necessary to complete the CEQA documentation process for this project. This includes the preparation of the 2nd Administrative Draft, the Draft EIR for public review, and the Final EIR, which includes response to comments.

Task 6.6: Prepare 2nd Administrative Draft EIR

After review of the 1st Administrative Draft EIR by the County, DD&A will respond, as necessary, and revise the document based on the comments received. The document will then be provided electronically to selected regulatory and resource agencies (at the discretion of the County) for their review and comment.¹ Total cost to complete this task is \$34,196, which will be broken out as follows:

¹ This scope and budget assumes that the Army Corps of Engineers (ACOE) will be the Federal lead agency and that the ACOE will not request or require significant revisions of the Administrative Draft EIR for compliance with NEPA regulations. Additional hard copies and CD copies that may be requested by Federal or State agencies is unknown at this time and is not included in this scope or budget.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

- Whitson Engineers \$3,000
- Balance Hydrologics \$500
- Moffat & Nichols \$5,000
- DD&A \$25,696 (personnel and expenses \$24,829; direct cost administration at 10% \$867)

Task 6.7: Prepare Screen Check and Public Review Draft EIR

DD&A assumes that the County and selected regulatory and resource agency staff will provide one (1) set of written comments each on the Administrative Draft EIR, either in letter form or on a single copy of the document.² DD&A will then submit a Screen Check Draft (electronic version only) to the County. After review of the Screen Check Draft, DD&A will submit fifteen (15) CD copies, fifteen (15) hard copies of the Summary Form, and Notice of Completion of the Draft EIR to the State Clearinghouse for distribution for a 45-day public review period (per CEQA requirements). It is assumed that the Army Corps of Engineers (ACOE) will comply with the Federal lead agency's NEPA requirements for public distribution independently. DD&A will provide thirty (30) hard copies (plus one (1) unbound camera ready copy) to County for local distribution. DD&A will also provide ten (10) CDs containing the document files in Microsoft Word and Adobe Acrobat (pdf) formats. This scope assumes that all public mailings and posting of documentation, notices, etc. will be performed and paid for by the County, including posting in the local newspaper and with the County Clerk. Additional copies beyond those identified above are not included in this scope. Total cost to complete this task is \$16,537.

Task 6.8: Draft Final EIR and Draft Mitigation Monitoring and Reporting Program (MMRP)

Task 6.8.1 Response to Comments/Prepare Draft Final EIR - DD&A will respond to public comments received on the Draft EIR received during the 45-day review period. DD&A, in consultation with the County, will prepare formal responses to these comments. The comment letters and responses, as well as any necessary changes to the text of the Draft EIR, will be incorporated into the Final EIR³. DD&A will provide electronic copies of the

² This scope and budget includes incorporating regulatory and resource agency comments, assuming that comments do not require substantial revisions or additional technical analysis. Substantial revisions are anticipated to be avoided by early coordination with key agencies; however, DD&A cannot anticipate agency staffing changes, project description changes, or other changes in circumstances outside DD&A's control.

³ The budget estimate for preparation of the Draft Final EIR is \$49,109 and assumes no new technical analyses will be needed. This estimate is based on DD&A's experience for the quantity and nature of public comment that is reasonably anticipated for a project of this scope. DD&A will review public comments and determine if the volume or nature of public comment significantly exceeds what is reasonably anticipated for this project. If DD&A believes the volume or nature of comments are beyond what was reasonably anticipated, DD&A will provide the County a written request with justification and cost estimate to utilize funds from Task 3.0, Optional Tasks, to complete the task.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Draft Final EIR to the County for review and comment. Total cost to complete this task is \$49,109 and is broken out as follows:

- Whitson Engineers \$2,000
- Balance Hydrologics \$2,000
- Moffat & Nichols \$2,000
- DD&A \$43,109 (personnel and expenses \$42,495; direct cost administration at 10% \$614)

Task 6.8.2 Prepare Draft MMRP - DD&A will also prepare a Draft MMRP in accordance with CEQA and County requirements, including the identification all mitigation measures, and implementation and monitoring responsibility, timing, and schedule. DD&A will provide electronic copies of the MMRP to the County for review and comment. Total cost for DD&A to complete this task is \$7,366.

Task 6.9: Prepare Final EIR and MMRP/Hearing Attendance

This task assumes DD&A will respond and incorporate one (1) single round of comments from the County on the Draft Final EIR and MMRP prior to preparation of the Final EIR and MMRP. The tasks required for project approval/EIR certification (e.g., preparation of staff reports, resolution, CEQA Findings/Statement of Overriding Considerations, etc.) and preparation, posting, and distribution of the notices (e.g., Notice of Determination) will be completed by DD&A in coordination with the County. DD&A will provide drafts of each of these documents to the County for review and comment prior to finalization. DD&A will provide ten (10) CDs and ten (10) hard copies of the Final EIR and MMRP to the County. This scope assumes that all public mailings and posting of documentation, notices, etc. will be conducted and paid for by the County, including County Clerk and California Department of Fish and Wildlife (CDFW) filing fees. Additional copies beyond those identified above are not included in this scope. DD&A will attend the public hearing for project approval and certification of the EIR and will be available to answer questions, as needed. DD&A will coordinate with the County to prepare and provide hearing and presentation materials; however, it is assumed that the County will be responsible for preparing and conducting the presentation. Total cost for DD&A to complete this task is \$29,470.

Task 7.0: 2ND ADMINISTRATIVE DRAFT EIR AND FINAL EIR MEETINGS AND PROJECT MANAGEMENT

Task 7.1: Meetings

Task 7.1.1 County Staff/Consultant Meetings for 2nd Admin Draft and Final EIR - DD&A has included four (4) meetings at the County offices lead by the CEQA lead with up to two (2) DD&A staff participating in each meeting. Total cost to complete this task is \$10,399 and is broken out as follows:

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

- Whitson Engineers \$500
- Balance Hydrologics \$500
- Moffat & Nichols \$500
- DD&A \$8,899 (personnel and expenses \$8,741; direct cost administration at 10% \$158)

Task 7.2: Conference Calls

Task 7.2.1 Conference Calls for 2nd Administrative Draft and Final EIR- DD&A has included eight (8), one-hour phone calls lead by the County with up to two (2) DD&A staff participating in each call. Total cost to complete this task is \$8,749 and is broken out as follows:

- Whitson Engineers \$500
- Balance Hydrologics \$500
- Moffat & Nichols \$500
- DD&A \$7,249 (personnel and expenses \$7,096; direct cost administration at 10% \$153).

Task 7.3: Project Management

Task 7.3.2 Project Management 2nd Administrative Draft EIR and Final EIR - DD&A will provide project management services, including subcontractor administration and management, status progress reporting and tracking, schedule and budget monitoring and reporting, and client/agency coordination. Total cost for DD&A to complete this task is \$8,969.

Task 8.0: Optional Tasks

Task 8.1 Additional Response and Revisions to prepare Draft Final EIR – Due to the controversial nature of the proposed project, there is the potential that the estimated budget will not be sufficient to respond to public comments on the Draft EIR. DD&A will review the public comments received during the public review period and determine whether additional funds are needed to adequately respond and finalize the EIR. Since responses to public comments may require preparation of new or updated information or materials, additional meetings, and changes to the project, an optional task in the amount of \$33,089 may be necessary for the completion of the EIR. The optional tasks above shall not be provided by DD&A unless authorized in writing prior to by the County.

Total Cost Estimate for the completion of the Draft and Final EIR is \$197,882.

- A.2** DD&A shall produce the following deliverables (written reports, installed products, etc.) by the proposed dates indicated below. Any necessary modifications to these proposed dates must be discussed and coordinated in advance with the County.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Monthly Project Status Reports in an agreed upon format between DD&A and County, to include monthly updates to the Carmel Lagoon Project – EIR Milestones Timeline Revised Draft dated August 23, 2015 (attached).

All work under this Agreement shall be completed by DD&A by no later June 30, 2016 unless otherwise authorized by the County's written consent, contingent upon availability of funding.

All written reports and deliverables required under this Agreement must be delivered electronically in PDF format, or if needed, in Microsoft Word or Excel, as applicable. Documents requiring agency or public distribution, such as technical studies that will be submitted to relevant agencies as hardcopy documents, if not explicitly stated in the task descriptions within the scope of work, DD&A will print and send up to three hard copies, in addition to electronic copies of each deliverable to the following individual in accordance with the schedule above:

Melanie Beretti
Resource Management Agency Special Programs Manager
County of Monterey, Resource Management Agency
168 West Alisal Street, 2nd Floor
Salinas, CA 93901
Email: berettim@co.monterey.ca.us

B. PAYMENT PROVISIONS

B.1 COMPENSATION/ PAYMENT

County shall pay an amount not to exceed \$277,883 for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services. DD&A's compensation for services rendered shall be based according to DD&A's 2015 Schedule of Rates effective through December 31, 2016 (attached) or in accordance with the following terms:

Expenses include photocopying, supplies, travel, reproduction, postage, phone, facsimile, materials, etc.

County and DD&A agree that DD&A shall be reimbursed for travel expenses during this Agreement. DD&A shall receive compensation for travel expenses as per the "County Travel Policy". A copy of the policy is available online at www.co.monterey.ca.us/auditor/policies.htm. To receive reimbursement, DD&A must provide a detailed breakdown of authorized expenses, identifying what was expended and when.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

DD&A warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged any other client for the same services performed by the same individuals.

B.2 DD&A'S BILLING PROCEDURES

Payment shall be based upon satisfactory acceptance of the work completed per task outlined in DD&A's monthly invoice and activity report.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by DD&A for services rendered if DD&A fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: DD&A is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Dante Duffy & Associates, Inc. Estimated Budget for Carmel River/Lagoon Area Projects Environmental Impact Report September 22, 2015																
Task Description																
Principal	Erin Harwayne, Senior Project Manager	Joan Harwayne, Senior Planner/Scientist II	Senior Planner/Scientist II	Associate Planner/Scientist	Assistant Planner/Scientist	CIS Specialist	Graphics	Administrative Manager	Whitson Engineers	Balance Hydrologics	AMBIENT	Mortel Nichols	Expenses (see note 1)	Admin Fee	Subtask Totals	Task Total
	\$216	\$155	\$145	\$145	\$103	\$92	\$98	\$75	\$81						TOTAL	\$
PHASE 2 FY 15/16 FUNDS																
6.0 ENVIRONMENTAL DOCUMENTATION CEQA/NEPA - 1st Admin Draft EIR																
6.1																\$ 27,800
Coastal Engineering Analysis, Design, and 30% Plans for Santa Road Protection Study																
6.1.1												\$ 25,000		\$ 2,500		\$ 27,500
Design Two Additional SPPS Alternatives																
6.5																\$ (27,500)
1st Admin Draft EIR/EA																
Funds shifted to Task 6.1.1																
PHASE 2 FY 15/16 FUNDS - 1st Administrative Draft EIR																
6.0 ENVIRONMENTAL DOCUMENTATION CEQA/NEPA																
Civil and Hydrological Engineering, Analysis, and Design and 30% Plans for the EPB																
6.2																\$ 73,024
Conceptual Plan for Additional Drained EPB Alternative																
6.2.2										\$ 7,500				\$ 750		\$ 8,250
CEQA/NEPA Project and Alternatives Description																
6.3																\$ 19,250
Incorporate Revisions																
6.3.1	4	24	22	19	30	36	0	10	6				\$ 280	\$ 26		\$ 19,250
1st Administrative Draft EIR																
6.5																\$ 45,524
Incorporate Revisions to Analysis																
6.5.1												\$ 25,000		\$ 2,500		\$ 27,500
Air Quality, GHG, Noise Studies																
6.5.2															\$ 16,924	\$ 19,024
Draft and Final EIR Meetings and Project Management																
7.0																\$ 6,977
Project Management																
7.3																\$ 6,977
Additional PM Tasks																
7.3.1	2	26	15										\$ 28	\$ 5		\$ 6,977
PHASE 2 FY 15/16 FUNDS - 2nd Administrative Draft EIR																
6.0 ENVIRONMENTAL DOCUMENTATION CEQA/NEPA																
Prepare 2nd Administrative Draft EIR																
6.6																\$ 136,677
Prepare Screen Check & Public Review Draft EIR																
6.7	4	22	12	18	20	36	9	5	14			\$ 5,000	\$ 165	\$ 887		\$ 34,196
Responses to Comments/Prepare Draft Final EIR and Draft MWRP (please see notes 2 and 3)																
6.8																\$ 16,537
Response to Comments/Prepare Draft Final EIR																
6.8.1	6	24	12	16	120	114	20	12	22	\$ 2,000		\$ 2,000	\$ 135	\$ 514		\$ 66,475
Draft MWRP																
6.8.2	2	16	8	4	26				4							\$ 7,366
Prepare Final EIR and MWRP/Preparation Attendance (see notes 2 and 3)																
6.9	6	14	4	20	60	120	6	16	14				\$ 120	\$ 12		\$ 29,470
Draft and Final EIR Meetings and Project Management																
7.0																\$ 28,116
County Staff/Consultants Meetings																
7.1																\$ 10,396
County Staff/Consultants Meetings (assumes 2 hrs for 4 mos.)																
7.1.1	2	24	10	24	2					\$ 500	\$ 500		\$ 500	\$ 166		\$ 10,396
Conference Calls																
7.2																\$ 6,749
Conference Calls (assumes 6, 1-1 hr calls for two DOQA staff plus prep and follow-up time)																
7.2.1	2	16	6	8	4					\$ 500	\$ 500		\$ 500	\$ 26	\$ 153	\$ 7,149
Project Management																
7.3																\$ 8,669
Project Management																
7.3.1	4	42	10											\$ 135	\$ 14	\$ 8,669
Optional Tasks																
8.0																\$ 33,089
Additional Response and Revisions to Prepare Final EIR																
8.1	4	24	10	20	40	120	34			\$ 1,500	\$ 2,000		\$ 1,500	\$ 152	\$ 515	\$ 33,089
Total Budget																
	\$ 9,000	\$ 41,850	\$ 20,715	\$ 24,360	\$ 36,432	\$ 46,816	\$ 9,310	\$ 4,935	\$ 6,885	\$ 7,500	\$ 13,000	\$ 16,385	\$ 34,500	\$ 1,242	\$ 17,283	\$ 277,983

Notes:

- Expenses include: Photocopying, supplies, travel expenses (i.e., mileage to meetings), reproduction, postage, phone, facsimile, materials, etc. Unless otherwise noted or requested, DOQA assumes that all deliverables would be submitted electronically (in PDF format, or if needed, Microsoft Word) only. The exception would be documents requiring agency or public distribution, such as the required technical studies that will be submitted to relevant agencies as hardcopy documents. If not explicitly stated in the task descriptions within the scope of work, DOQA will print and send up to three hard copies. In addition to electronic copies of each deliverable.
- Responding to public agency comments. This budget estimate assumes preparation of the Draft Final EIR at a cost of \$40,109, assuming no new technical analysis. DOQA will review the comments and determine whether the estimated budget is sufficient to complete the task. If not, DOQA will request the County RMA to offset the funds from Task 6.0 to complete the task.
- New technical studies. This task specifically excludes new technical reports in the areas of hydrogeology, geotechnical/geology analysis, economic analysis, Toxic Air Contaminant Risk Assessment, a Phase 1 Environmental Site Assessment, a sand balance and/or sand depletion study are anticipated to be required based upon the existing environmental documents. However, in the event that those technical studies are required they can be amended to include one or more of those studies. Available information for issues areas not addressed in the scope are assumed to be adequately

EXHIBIT A-2 – SCOPE OF SERVICES/PAYMENT PROVISIONS



Denise Duffy & Associates, Inc.

PLANNING AND ENVIRONMENTAL CONSULTING

2015 SCHEDULE OF RATES

HOURLY PERSONNEL RATES

Principal	\$215.00
Senior Project Manager/Engineering Specialist	\$180.00
Senior Project Manager	\$155.00
Senior Botanist	\$145.00
Senior Planner/Scientist II	\$145.00
Project Manager	\$135.00
Senior Planner/Scientist	\$125.00
Assistant Project Manager	\$113.00
Environmental Biologist	\$108.00
Associate Planner/Scientist	\$103.00
Assistant Planner/Scientist	\$ 92.00
GIS/Computer Specialist	\$ 98.00
Administrative Manager	\$ 81.00
Database/Designer/Graphics	\$ 75.00
Field Technician	\$ 65.00
Administrative Assistant	\$ 60.00

Direct reimbursable expenses are charged at DD&A cost, plus 10%.

These expenses may include, but are not limited to: subconsultants, reproduction, courier, postage, long-distance phone, fax and cellular, mileage and field supplies.

Mileage will be charged at the current IRS mileage rate.

Above rates are effective through 12/31/16 and may be adjusted thereafter if the contract is extended beyond that date.

EXHIBIT A-2 – SCOPE OF SERVICES/PAYMENT PROVISIONS

Carmel Lagoon Project - EIR Milestones Timeline			
Revised Draft August 23, 2015			
Milestone	Start Date	Date of Completion	Notes
DD&A prepares and submits Admin Draft Project Description and Alternatives Matrix to County RMA and technical consultants	In progress	September 4, 2015	
County RMA and technical consultant review	September 7, 2015	September 21, 2015	Assumes two week review period
DD&A revises Admin Draft Project Description and Alternatives Matrix; Submit to Agencies	September 22, 2015	September 29, 2015	Assumes no major revisions
Agency Review and Comment on Admin Draft Project Description and Alternatives Matrix	September 30, 2015	October 21, 2015	Assumes 3 weeks
DD&A Prepares 1st Administrative Draft EIR to County RMA	In progress	October 30, 2015	In progress
Internal Project Team Review and Comment	November 2, 2015	November 23, 2015	County RMA and Technical Consultants Review and Comment - assume 3 weeks
DD&A Prepares 2nd Administrative Draft EIR	November 24, 2015	December 8, 2015	DD&A incorporates comments - assume 2 weeks
Regulatory and Resource Agency Opportunity to Review and Comment	December 9, 2015	January 6, 2016	Assumes 3 weeks and allows for a extra week due to holidays
DD&A Prepares Screencheck and Public Draft EIR/Notice	January 4, 2016	February 1, 2016	DD&A incorporate comments and provides Screencheck to County RMA for approval prior to public distribution - assume 4 weeks
Draft EIR Public Review Period	2-Feb-16	March 18, 2016	45-day public review period
DD&A Prepares Draft Final EIR and MMRP	March 21, 2016	April 18, 2016	Response to comments/objections (which may include meetings with technical team, stakeholders, and/or regulatory and resource agencies to clarify comments or resolve issues) assumes 4 weeks
Internal Project Team Review and Comment	April 19, 2016	May 3, 2016	County RMA and Technical Consultants Review and Comment - assumes 2 weeks
DD&A Prepares Final EIR/MMRP and Draft CEQA Findings and Agenda Items	May 4, 2016	May 29, 2016	DD&A incorporates comments - assume 3 weeks; DD&A will prepare and/or assist the County RMA with PC agenda items and CEQA Findings - assumes 3 weeks
County RMA Review and Comment on Draft CEQA Findings and Agenda Items	May 26, 2016	June 9, 2016	Assumes 2 weeks
DD&A Finalizes CEQA Findings and Agenda Items	June 10, 2016	June 21, 2016	Final Agenda items due by noon on the Tuesday one week prior to PC meeting (assuming meeting June 29, 2016)
Distribute Final EIR/MMRP to Concerned Parties	June 17, 2016	June 17, 2016	No later than 10 days prior to approval (anticipated approval June 29, 2016)
Planning Commission/Public Hearing	June 29, 2016	June 29, 2016	Project Approval/CEQA Certification
DD&A Prepares Draft NOD/County Files NOD	June 30, 2016	July 6, 2016	NOD filing required within 5 business days of project approval/CEQA certification

ACORD™ CERTIFICATE OF LIABILITY INSURANCEDate (MM/DD/YR)
8/14/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

SelectSolutions Insurance Services, LLC
License# 0127711
1350 Carlbach Avenue
Walnut Creek, CA 94596

CONTACT NAME: Diana Chau
PHONE (A/C, No, Ext): 714-361-7700 FAX (A/C, No): 855-804-8449
EMAIL ADDRESS: dianac@heffins.com

INSURERS AFFORDING COVERAGE**NAIC #**

INSURER A:	Citizens Insurance Co of America	31534
INSURER B:	Hanover American Insurance Co	36034
INSURER C:	Continental Casualty Co	20443
INSURER D:		
INSURER E:		
INSURER F:		

INSURED

Denise Duffy & Associates, Inc.
947 Cass St., Ste. 5
Monterey, CA 93940

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY						EACH OCCURRENCE \$1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		OB3916991204	09/01/15	09/01/16	MED EXP (Any one person) \$5,000
							PERSONAL & ADV INJURY \$1,000,000
							GENERAL AGGREGATE \$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER						PRODUCTS - COMP/OP AGG \$2,000,000
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC						\$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$INCL IN GL
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS			OB3916991204	09/01/15	09/01/16	BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> SCHEDULED AUTOS						\$
A	UMBRELLA LIAB						EACH OCCURRENCE \$1,000,000
	<input checked="" type="checkbox"/> EXCESS LIAB			OB3916991204	09/01/15	09/01/16	AGGREGATE \$1,000,000
	DED						\$
	RETENTION \$0						
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? (Mandatory in N.H.)			WZ3916990604	09/01/15	09/01/16	E.L. EACH ACCIDENT \$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$1,000,000
							E.L. DISEASE - POLICY LIMIT \$1,000,000
C	PROFESSIONAL LIABILITY			EEH276198480	11/05/14	11/05/15	Per Claim Aggregate \$2,000,000 \$2,000,000

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

Re: Carmel Lagoon Project. The County of Monterey, its Officers, Agents and Employees are named as additional insured (primary) on General Liability policy if required by written contract per attached endorsement.

CERTIFICATE HOLDER

County of Monterey
Resource Management Agency
168 W. Alisal St., 3rd Fl.
Salinas, CA 93901

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Leticia Truvin

ACORD 25 (2010/05)

©1-8-2010 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

Policy Number: OB3916991204

Insured: DENISE DUFFY & ASSOCIATES, INC.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY SUPPLEMENTARY ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

I. Additional Insured by Contract, Agreement or Permit

Under SECTION II – LIABILITY, C. Who Is An Insured, Paragraph 4. is added as follows:

- a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

but only with respect to:

- (3) "Your work" for the additional insured(s) at the location designated in the contract, agreement or permit; or
- (4) Premises you own, rent, lease, control or occupy.

This insurance applies on a primary basis if that is required by the written contract, agreement or permit.

- b. This provision does not apply:

- (1) Unless the written contract or written agreement has been executed or permit has been issued prior to the "bodily injury", "property damage" or

"personal and advertising injury";

- (2) To any person or organization included as an insured by an endorsement issued by us and made part of this Policy;

- (3) To any lessor of equipment:

- (a) After the equipment lease expires; or

- (b) If the "bodily injury", "property damage" or "personal and advertising injury" arises out of the sole negligence of the lessor;

- (4) To any:

- (a) Owners or other interests from whom land has been leased which takes place after the lease for that land expires; or

- (b) Managers or lessors of premises if:

- (i) The occurrence takes place after you cease to be a tenant in that premises; or

- (ii) The "bodily injury", "property damage" or "personal and advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor; or

- (5) To "bodily injury", "property damage" or "personal and advertising injury" arising out of

advertising injury" arising out of the rendering of or the failure to render any professional services. This includes but is not limited to any professional services as an architect or engineer arising out of any construction agreement or activities under which any insured or anyone acting on any insured's behalf provides or provided service, advice, expertise or work. Construction includes, but is not limited to, the plan, conception, design, build, construct, assembly, development, safety, erection, formation, reconstruct, rehabilitation, repair, or any improvement made to real property. Construction also includes the hiring, supervision or management of any of these activities. However, this exclusion does not apply to liability arising out of an insured's presence at a jobsite that was not caused by professional activities listed in the above paragraph.

c. Additional insured coverage provided by this provision will not be broader than coverage provided to any other insured.

d. All other insuring agreements, exclusions, and conditions of the policy apply.

II. Additional Insured by Contract, Agreement or Permit – Primary and Non-contributory

The following is added to **SECTION III – COMMON POLICY CONDITIONS**:

M. Other Insurance

1. Additional Insureds

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **SECTION II - LIABILITY, Part C – Who is An Insured**, is

primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss we cover under **SECTION II – LIABILITY, Part A. Coverages, Paragraph 1., Business Liability** our obligations are limited as follows:

a. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

- (1) For the sole negligence of the Additional Insured;
- (2) When the Additional Insured is an Additional Insured under another primary liability policy; or
- (3) When b.(2) below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in b.(3) below.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

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

(b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;

(c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner; or

(d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability.

When this insurance is excess, we will have no duty under SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

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

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

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

c. Method Of Sharing

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

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

III. Aggregate Limit of Insurance (Per Project)

a. For purposes of the coverage provided by this endorsement, D. Liability and Medical Expenses Limits of Insurance under Section II – Liability is amended by adding the following:

The General Aggregate Limit under D. Liability and Medical Expenses Limits of Insurance applies separately to each of "your projects" or each location listed in the Declarations.

- b. For purposes of the coverage provided by this endorsement F. **Liability And Medical Expenses Definitions** under **Section II - Liability** is amended by adding the following:

a. "Your project" means:

- i. Any premises, site or location at, on, or in which "your work" is not yet completed; and
- ii. Does not include any location listed in the Declarations.

IV. Blanket Waiver of Subrogation

Paragraph K. **Transfer Of Rights Of Recovery Against Others To Us** in **Section III - Common Policy Conditions** is amended by the addition of the following:

We will waive any right of recovery we may have against any person or organization when you have agreed in a written contract, permit or agreement to waive any rights of recovery against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".



COUNTY OF MONTEREY

PURCHASE ORDER

ORDER DATE 09-07-2016

DO	3000	0000012070	New
----	------	------------	-----

IMPORTANT

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

VENDOR DENISE DUFFY & ASSOCIATES 947 Cass Street Ste 5 Monterey CA 93940	SHIP TO S H I P T O PLANNING & BLDG/INSPECTION INSPECTION 168 W. ALISAL ST., 2ND FLOOR SALINAS CA 93901	BLDG/ALISAL B I L L T O PLANNING & BLDG/ALISAL 168 W. ALISAL ST 2ND FLOOR SALINAS CA 93901
VENDOR NUMBER: CV000001806		F.O.B.:
DELIVERY DATE:		

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	UNIT PRICE	SALES TAX	EXTENDED PRICE
1	0.0		92642	PURCH DESC: THIS PURCHASE ORDER IS ISSUED TO EXTEND THE TERM OF AGREEMENT PER AMENDMENT NO # 4 THIS IS TO PROVIDE A PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY FOR PROJECTS LOCATED IN THE CARMEL RIVER LAGOON AREA AND A CARMEL RIVER LAGOON RESTORATION AND MANAGEMENT PLAN MYA *844 TO REPLACE DO *4959 16 Accrual Invoice AND NOT TO EXCEED 277,883.00 FROM 92642 COMM LINE DESC: Env Svc (Not Otherwise Classified) EXTENDED DESC: PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY - CARMEL RIVER LAGOON MSDS: Not Required 404 - 3000 - 8174 - RMA015 - 6613 - - LRPLN CERM LAGOON - - 150000.00 92642 COMM LINE DESC: Env Svc (Not Otherwise Classified) EXTENDED DESC: PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY - CARMEL RIVER LAGOON 16 Accrual MSDS: Not Required 001 - 3000 - 8172 - RMA001 - 6613 - - LRPLN CERM LAGOON - - 40540.10	.00	.00	150,000.00
2	0.0		92642		.00	.00	40,540.10

THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY

ORDER TOTAL	190,540.10
--------------------	-------------------

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/cao/terms_conditions.htm

TAX EXEMPTION INFORMATION: FEDERAL EXCISE TAX EXEMPTION NUMBER 94-6000524	COUNTY BUYER INFORMATION TELEPHONE: EMAIL:
---	---

AUTHORIZED BY COUNTY OF MONTEREY
DEPUTIZED PURCHASING AGENT

Handwritten signature

PRINT DATE: 12/14/16

CONTRACTS/PURCHASING DIVISION
1488 Schilling Place Salinas CA 93901

Attachment 7

This page intentionally left blank.

**AMENDMENT NO. 3
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS AMENDMENT NO. 3 to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Denise Duffy & Associates, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement with County on May 1, 2013 (hereinafter, "Agreement") to provide a Programmatic Biological Assessment and Initial Study for projects located in the Carmel River Lagoon Area and a Carmel River Lagoon Restoration and Management Plan for Phases 1 and 2 (hereinafter, "Project"); and

WHEREAS, Agreement was amended by the Parties on April 10, 2014 (hereinafter, "Amendment No. 1"), and June 13, 2014 (hereinafter, "Amendment No. 2", including Exhibit A-1 – Scope of Services/Payment Provisions) and incorporated into the Agreement by this reference; and

WHEREAS, Phase 1 of the Project has been completed; and

WHEREAS, tasks identified in Phase 2 of the Project are underway; and

WHEREAS, additional time is necessary to allow for completion of negotiations between the Parties to add newly identified tasks to Phase 2 associated with completion of the Project; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term to June 30, 2016 with no associated dollar amount increase to allow additional time for completion of negotiations between the Parties for the addition of newly identified tasks associated with completion of the Project.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from April 23, 2013 to June 30, 2016, unless sooner terminated pursuant to the terms of this Agreement.

2. All other terms and conditions of the Agreement remain unchanged and in full force.
3. This Amendment No. 3 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

4. The recitals to this Amendment No. 3 are incorporated into the Agreement and this Amendment No. 3.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 3 to the Agreement as of the last date opposite the respective signatures below:

COUNTY OF MONTEREY

By: [Signature]
Deputy Contracts/Purchasing Officer Agent

Date: 4/23/15

Approved as to Form and Legality
Office of the County Counsel

By: [Signature]
Deputy County Counsel

Date: 4-22-15

Approved as to Fiscal Provisions

By: [Signature]
Auditor/Controller

Date: 4-22-15

Approved as to Indemnity, Insurance Provisions

By: _____
Risk Management

Date: _____

CONTRACTOR*

Denise Duffy & Associates, Inc.

Contractor's Business Name

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

Its: Denise Duffy, President
(Printed Name and Title)

Date: 4/7/15

By: [Signature]
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Its: Denise Duffy, Secretary
(Printed Name and Title)

Date: 4/7/15

*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.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

Date (MM/DD/YR)
11/6/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

Heffernan Professional Practice Insurance Brokers
License No. 0564249
6 Hutton Centre Dr., Ste 500
Santa Ana, CA 92707

CONTACT

NAME: Jackie Riola
PHONE (A/C, No, Ext): 714-361-7700 FAX (A/C, No): 714-361-7701
EMAIL ADDRESS: JackieR@heffins.com

INSURED

Denise Duffy & Associates, Inc.
947 Cass St., Ste 5
Monterey, CA 93940

INSURERS AFFORDING COVERAGE**NAIC #**

INSURER A:	Citizens Insurance Co of America	31534
INSURER B:	Hanover American Insurance Co	36034
INSURER C:	Continental Casualty Co	20443
INSURER D:		
INSURER E:		
INSURER F:		

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY						EACH OCCURRENCE	\$1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$500,000
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		OB3916991203	09/01/14	09/01/15	MED EXP (Any one person)	\$5,000
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER						PRODUCTS - COMP/OP AGG	\$2,000,000
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC							\$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
	ANY AUTO						BODILY INJURY (Per person)	\$
	ALL OWNED AUTOS		X	OB3916991203	09/01/14	09/01/15	BODILY INJURY (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (Per accident)	\$
								\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB						EACH OCCURRENCE	\$1,000,000
	EXCESS LIAB			OB3916991203	09/01/14	09/01/15	AGGREGATE	\$1,000,000
	DED <input type="checkbox"/> RETENTION \$							\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						<input checked="" type="checkbox"/> WC STATUTORY LIMITS	
	ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? (Mandatory in N.H.)		N/A	WZ3916990603	09/01/14	09/01/15	E.L. EACH ACCIDENT	\$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$1,000,000
							E.L. DISEASE - POLICY LIMIT	\$1,000,000
C	PROFESSIONAL LIABILITY			EEH276198480	11/05/14	11/05/15	Per Claim Aggregate	\$2,000,000 \$2,000,000

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

Re: Carmel Lagoon Project. The County of Monterey, its Officers, Agents and Employees are named as additional insured (primary) on General Liability and additional insured Automobile Liability policies if required by written contract per attached endorsement.

CERTIFICATE HOLDER

County of Monterey
Resource Management Agency
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2010/05)

©1-8-2010 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

Policy Number: OB3916991203

Insured: DENISE DUFFY & ASSOCIATES,
INC.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY SUPPLEMENTARY ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

I. Additional Insured by Contract, Agreement or Permit

Under **SECTION II – LIABILITY, C. Who Is An Insured**, Paragraph 4. Is added as follows:

- a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

but only with respect to:

- (3) "Your work" for the additional insured(s) at the location designated in the contract, agreement or permit; or
- (4) Premises you own, rent, lease, control or occupy.

This insurance applies on a primary basis if that is required by the written contract, agreement or permit.

- b. This provision does not apply:

- (1) Unless the written contract or written agreement has been executed or permit has been issued prior to the "bodily injury", "property damage" or

"personal and advertising injury";

- (2) To any person or organization included as an insured by an endorsement issued by us and made part of this Policy;

- (3) To any lessor of equipment:

(a) After the equipment lease expires; or

(b) If the "bodily injury", "property damage" or "personal and advertising injury" arises out of the sole negligence of the lessor;

- (4) To any:

(a) Owners or other interests from whom land has been leased which takes place after the lease for that land expires; or

(b) Managers or lessors of premises if:

(i) The occurrence takes place after you cease to be a tenant in that premises; or

(ii) The "bodily injury", "property damage" or "personal and advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor; or

- (5) To "bodily injury", "property damage" or "personal and

advertising injury" arising out of the rendering of or the failure to render any professional services. This includes but is not limited to any professional services as an architect or engineer arising out of any construction agreement or activities under which any insured or anyone acting on any insured's behalf provides or provided service, advice, expertise or work. Construction includes, but is not limited to, the plan, conception, design, build, construct, assembly, development, safety, erection, formation, reconstruct, rehabilitation, repair, or any improvement made to real property. Construction also includes the hiring, supervision or management of any of these activities. However, this exclusion does not apply to liability arising out of an insured's presence at a jobsite that was not caused by professional activities listed in the above paragraph.

- c. Additional insured coverage provided by this provision will not be broader than coverage provided to any other insured.
- d. All other insuring agreements, exclusions, and conditions of the policy apply.

II. Additional Insured by Contract, Agreement or Permit – Primary and Non-contributory

The following is added to **SECTION III – COMMON POLICY CONDITIONS:**

M. Other Insurance

1. Additional Insureds

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **SECTION II - LIABILITY, Part C – Who is An Insured**, is

primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss we cover under **SECTION II – LIABILITY, Part A. Coverages, Paragraph 1., Business Liability** our obligations are limited as follows:

a. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

- (1) For the sole negligence of the Additional Insured;
- (2) When the Additional Insured is an Additional Insured under another primary liability policy; or
- (3) When **b.(2)** below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **b.(3)** below.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

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

(b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;

(c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner; or

(d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability.

When this insurance is excess, we will have no duty under **SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

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

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

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

c. Method Of Sharing

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

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

III. Aggregate Limit of Insurance (Per Project)

a. For purposes of the coverage provided by this endorsement, **D. Liability and Medical Expenses Limits of Insurance** under **Section II – Liability** is amended by adding the following:

The General Aggregate Limit under **D. Liability and Medical Expenses Limits of Insurance** applies separately to each of "your projects" or each location listed in the Declarations.

- b. For purposes of the coverage provided by this endorsement **F. Liability And Medical Expenses Definitions** under **Section II - Liability** is amended by adding the following:

- a. "Your project" means:

- i. Any premises, site or location at, on, or in which "your work" is not yet completed; and
 - ii. Does not include any location listed in the Declarations.

IV. Blanket Waiver of Subrogation

Paragraph **K. Transfer Of Rights Of Recovery Against Others To Us** in **Section III – Common Policy Conditions** is amended by the addition of the following:

We will waive any right of recovery we may have against any person or organization when you have agreed in a written contract, permit or agreement to waive any rights of recovery against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".



COUNTY OF MONTEREY

PURCHASE ORDER

ORDER DATE 05-07-2015

DO 3000 0000004959

IMPORTANT

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

VENDOR DENISE DUFFY & ASSOCIATES 947 Cass Street Ste 5 Monterey CA 93940	SHIP TO S H P T O PLANNING & BLDG/ INSPECTION INSPECTION 168 W. ALISAL ST., 2ND FLOOR SALINAS CA 93901	BUYER B J L T O PLANNING & BLDG/ ALISAL 168 W. ALISAL ST 2ND FLOOR SALINAS CA 93901
VENDOR NUMBER: CV000001806		F.O.B.:
DELIVERY DATE:		

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	UNIT PRICE	SALES TAX	EXTENDED PRICE
				<p>PURCH DESC: THIS PURCHASE ORDER IS ISSUED TO EXTEND THE TERM OF AGREEMENT PER AMENDMENT NO. 1. THIS IS TO PROVIDE A PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY FOR PROJECTS LOCATED IN THE CARMEL RIVER LAGOON AREA AND A CARMEL RIVER LAGOON RESTORATION AND MANAGEMENT PLAN (MYA *844)</p> <p>THE TERM OF THIS AGREEMENT IS FROM 04/23/13 - 04/23/15 AND SHALL NOT EXCEED \$353,100.00</p> <p>THIS PURCHASE ORDER IS VALID FROM 07/01/13 - 06/30/14 AND SHALL NOT EXCEED \$305,927.55.</p> <p>*****CHANGE ORDER*****</p> <p>THIS CHANGE ORDER IS ISSUED TO INCREASE THE AGREEMENT BY \$193,571.00 PER AMENDMENT NO. 2.</p> <p>THIS PURCHASE ORDER SHALL NOT EXCEED \$499,498.55 AND THE AGREEMENT SHALL NOT EXCEED \$546,671.00</p> <p>*****CHANGE ORDER*****</p> <p>THIS PURCHASE ORDER IS ISSUED TO EXTEND THE TERM OF AGREEMENT PER AMENDMENT NO. 3 THIS IS TO PROVIDE A PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY FOR PROJECTS LOCATED IN THE CARMEL RIVER LAGOON AREA AND A CARMEL RIVER LAGOON RESTORATION AND MANAGEMENT PLAN (MYA *844)</p> <p>THE TERM OF THIS AGREEMENT IS FROM 04/23/15 - 06/30/16 AND SHALL NOT EXCEED \$499,498.55 AND THE AGREEMENT SHALL NOT EXCEED \$546,671.00</p>			

THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY

ORDER TOTAL

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. Taylor

COUNTY BUYER INFORMATION

TELEPHONE:

EMAIL:

PRINT DATE: 05/12/15

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

PAGE NUMBER: 1 OF 2



COUNTY OF MONTEREY

PURCHASE ORDER

ORDER DATE 05-07-2015

DO 3000 0000004959

IMPORTANT

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

VENDOR DENISE DUFFY & ASSOCIATES 947 Cass Street Ste 5 Monterey CA 93940	SHIP TO PLANNING & BLDG/ INSPECTION INSPECTION 168 W. ALISAL ST., 2ND FLOOR SALINAS CA 93901	BLDG/ ALISAL PLANNING & BLDG/ ALISAL 168 W. ALISAL ST 2ND FLOOR SALINAS CA 93901
VENDOR NUMBER: CV000001806		F.O.B.:
DELIVERY DATE:		

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	UNIT PRICE	SALES TAX	EXTENDED PRICE
1	0.0		92642	COMM LINE DESC: Env Svc (Not Otherwise Classified) EXTENDED DESC: PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY - CARMEL RIVER LAGOON MSDS: Not Required 001 - 1050 - 8038 - CAO017 - 6613 - - - 499498.55	.00	.00	499,498.55

THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY

ORDER TOTAL 499,498.55

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

COUNTY BUYER INFORMATION
TELEPHONE:
EMAIL:

AUTHORIZED BY COUNTY OF MONTEREY
DEPUTIZED PURCHASING AGENT

Michael R. Ten

PRINT DATE: 05/12/15

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

PAGE NUMBER: 2 OF 2

This page intentionally left blank.

Attachment 8

This page intentionally left blank.



Monterey County

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Agreement No.: A-12442

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

- a. Approved Amendment No. 2 to Professional Services Agreement No. A-12442 with Denise Duffy & Associates, Inc. to include the preparation of a Focused Environmental Impact Report for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan (Request for Proposals #2012-CRL-1) for Phases 1 and 2, in the amount of \$193,571 for a total amount not to exceed \$546,671, for a term to April 23, 2015; and
- b. Authorized the Contracts/Purchasing Officer to execute Amendment No. 2 to Professional Services Agreement No. A-12442 and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount. (PD060228/Denise Duffy and Associates, REF12051/Carmel Lagoon Area) Focused Environmental Impact Report (EIR) for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan (Request for Proposals (RFP) #2012-CRL-1)

PASSED AND ADOPTED on this 10th day of June 2014, by the following vote, to wit:

AYES: Supervisors Armenta, Salinas, Parker and Potter

NOES: None

ABSENT: Supervisor Calcagno

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on June 10, 2014.

Dated: June 13, 2014
File Number: A 14-119

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

By 
Deputy

**AMENDMENT NO. 2
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS AMENDMENT NO. 2 to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Denise Duffy & Associates, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement with County on May 1, 2013 (hereinafter, "Agreement") to provide a Programmatic Biological Assessment (BA) and Initial Study (IS) for projects located in the Carmel River Lagoon Area and a Carmel River Lagoon Restoration and Management Plan for Phases 1 and 2 (hereinafter, "Project"); and

WHEREAS, Agreement was amended by the Parties on April 10, 2014 (hereinafter, "Amendment No. 1"); and

WHEREAS, the Parties have concluded that a Focused Environmental Impact Report (EIR) rather than a Programmatic BA and IS is the most efficient environmental document for completion of Phase 2 of the Project; and

WHEREAS, there is a remaining balance in the original scope of the Agreement in the amount of \$138,383.00 for tasks related to the completion of the Programmatic BA and IS for Phase 2 of the Project which requires reallocation to new tasks associated with the Focused EIR

WHEREAS, additional funding is necessary for CONTRACTOR to include new tasks for completion of the Focused EIR for Phase 2 of the Project; and

WHEREAS, the Parties wish to further amend the Agreement to increase the amount by \$193,571.00 to allow the CONTRACTOR to continue to provide tasks identified in the Agreement and as amended by this Amendment No. 2.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend Paragraph 1, "Services to be Provided.", to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A and A-1** in conformity with the terms of this Agreement. The services are generally described as follows: **Provide** a Focused Environmental Impact Report for projects located in the Carmel River Lagoon

Amendment No. 2 to Professional Services Agreement
Denise Duffy & Associates, Inc.
Carmel River Lagoon Area Projects
RMA - Planning
Term: April 23, 2013 - April 23, 2015
Not to Exceed: \$546,671.00

Area and a Carmel River Lagoon Restoration and Management Plan (RFP #2012-CRL-1) for Phases 1 and 2.

2. Amend Paragraph 2, "Payments by County.", to read as follows:

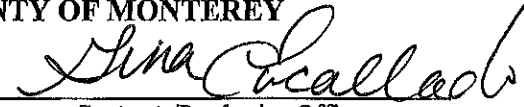
County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A and A-1**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$546,671.00.

3. Amend Paragraph 4, "Additional Provisions/Exhibits.", by adding "Exhibit A-1, Scope of Services/Payment Provisions".
4. All other terms and conditions of the Agreement remain unchanged and in full force.
5. This Amendment No. 2 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 2 to Professional Services Agreement
Denise Duffy & Associates, Inc.
Carmel River Lagoon Area Projects
RMA – Planning
Term: April 23, 2013 – April 23, 2015
Not to Exceed: \$546,671.00

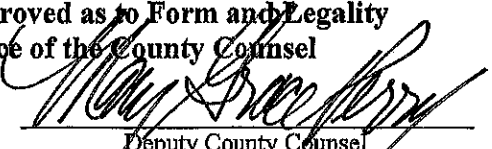
IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Agreement as of the last date opposite the respective signatures below:

COUNTY OF MONTEREY

By: 
Contracts/Purchasing Officer

Date: 6/3/14

**Approved as to Form and Legality
Office of the County Counsel**

By: 
Deputy County Counsel

Date: 6-3-2014

Approved as to Fiscal Provisions

By: 
Auditor/Controller

Date: 6-2-14

Approved as to Indemnity, Insurance Provisions

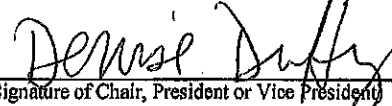
By: _____
Risk Management

Date: _____

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

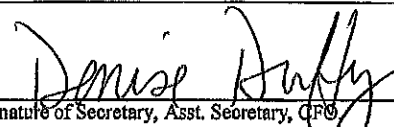
CONTRACTOR*

Denise Duffy & Associates, Inc.
Contractor's Business Name

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

Its: Denise Duffy, President
(Printed Name and Title)

Date: 5/30/14

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

Its: Denise Duffy, Secretary
(Printed Name and Title)

Date: 5/30/14

Amendment No. 2 to Professional Services Agreement
Denise Duffy & Associates, Inc.
Carmel River Lagoon Area Projects
RMA - Planning
Term: April 23, 2013 - April 23, 2015
Not to Exceed: \$546,671.00

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

CARMEL LAGOON ECOSYSTEM PROTECTIVE BARRIER, SCENIC ROAD PROTECTION STRUCTURE, AND INTERIM SANDBAR MANAGEMENT PLAN PROJECT

SCOPE OF WORK REVISIONS FOR: PHASE 2: ENVIRONMENTAL DOCUMENTATION CEQA/NEPA *Prepared May 23, 2014*

Denise Duffy & Associates, Inc. (DD&A) is currently contracted by the Monterey County Resource Management Agency (RMA) to prepare a joint Programmatic Initial Study/Mitigated Negative Declaration (IS/MND) and Environmental Assessment/Finding of No Significant Impact (EA/FONSI) under the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA), respectively. The preparation of these documents is identified as *Phase 2: Environmental Documentation CEQA/NEPA* of the existing Agreement. The RMA has determined that a Focused Environmental Impact Report (EIR) should be prepared instead of a Programmatic IS/MND based on the potential for significant environmental impacts and level of public controversy. The RMA has requested that DD&A revise the existing scope of work for *Phase 2*, identify how much of the original Agreement funds are remaining, and reallocate those funds to complete as much of the revised scope as possible.

DD&A has identified the revisions to the existing scope of work and budget that would be required to prepare a Joint, Focused EIR/EA, which are described in detail in the attached revised scope of work. Please note that DD&A is proposing to replace tasks within the existing *Phase 2* scope of work with the revised *Phase 2* tasks identified herein.

DD&A will reallocate the remaining *Phase 2* budget (as of April 30, 2014) in the amount of \$138,383 to perform the proposed revised tasks. The reallocated funds will provide for completion of *Task 6.1, Coastal Engineering Analysis and 30% Plans for the Scenic Road Protection Study (SRPS)*, *Task 6.2, Civil and Hydrologic Engineering and 30% Plans for the Ecosystem Protection Barrier (EPB)*, *Task 6.3, CEQA/NEPA Project and Alternatives Description* and *Task 6.4, Notice of Preparation (NOP)/Noticing/Scoping*. An amendment to the Agreement in the amount of \$193,571 will be required for *Tasks 6.5 through Task 7.3* and for completion of the 1st Administrative Draft EIR/EA.

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

PHASE 2: TASK 6: CEQA AND NEPA DOCUMENTS/ADDITIONS

The RMA would be the CEQA lead agency and the U.S. Army Corps of Engineers (ACOE) would be the NEPA lead agency because they must comply with NEPA to issue a Clean Water Action Section 404 individual permit(s) for the Carmel River Lagoon Project. The DD&A Team proposes to provide CEQA and NEPA services in a phased approach to allow the County substantial input on the choice, content, and review process of the environmental document. DD&A proposes to prepare a combined CEQA/NEPA document, specifically, an EIR/EA.

Task 6.1: Coastal Engineering Analysis, Design and 30% Plans for SRPS

Moffatt & Nichol as a subconsultant to DD&A will develop the basis of design and adopt findings from the Carmel River Lagoon Restoration SRPS prepared by Moffatt & Nichol in 2013. This includes acquisition and analysis of offshore buoy data, development of wave statistics, transformation of offshore wave action to the shoreline, and development of design wave heights and periods and water levels. Wave action to be analyzed will consist of seas and swell originating from the Pacific.

This task will develop project topography and focus on establishing the topography of the project area and the dimensions of the revetment design. This task will also develop estimates of the vertical variation of the beach fronting Scenic Road. This will include assessment of the seasonal variation of the beach width and height, and assessment of the elevation of the foreshore following breaching of the Carmel River Lagoon.

This task will develop revetment outline design and generate the design calculations and analyses necessary to establish the revetment proportions. This includes determination of the size of rock needed for the revetment, the gradation of the rock, and the thickness of the primary outer armor layer. The thickness, stone size, and gradation of underlying bedding/filter layers will also be determined as necessary. Specifications for geotextile fabric to be utilized as an underlayer will also be developed. The overall dimensions of the revetment, layer thicknesses, and crest elevation will be determined relative to estimated water level and wave run-up elevations. The elevation, thickness, and width of the toe will be established with respect to design water levels, beach erosion, and potential local scour. This task includes meeting, conference calls and communication by Moffatt and Nichol with the project team as necessary in the development of the plans.

Task 6.2: Civil and Hydrological Engineering, Analysis, Design and 30% Plans for the Ecosystem Protection Barrier (EPB)

Whitson Engineers as a subconsultant to DD&A will work to develop a Basis of 30% Design memorandum for the EPB project outlining, in brief language, the major project design considerations, assumptions, and approaches. This task includes the development of 15% (concept level) plans for two alternatives which were not included in the Feasibility Report. This task includes meeting, conference calls and communication by Whitson Engineers with the project team in the development of the plans.

This task includes the development of 30% plan sheets for the Proposed EPB Project. At this time the following sheets are anticipated for the 30% plan set:

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

- Cover Sheet (for both EPB and SRPS portions of project)
- Topographic Map
- Horizontal Control Plan
- EPB Sections
- EPB Profile
- Carmelo Street Plan and Profile
- Pump Station Plan and Sections
- Temporary Water Pollution Control, showing anticipated temporary Best Management Plan (BMP) strategies, such as crane mats, wetland protection fabric, etc.
- Temporary Construction Access and Staging, showing anticipated access corridors, required construction easement areas, contractor material staging areas, etc.
- Conceptual Restoration Plan, showing generalized restoration areas
- Update of the construction cost estimate based on the 30% plans

Hydrological analysis will include work by **Balance Hydrologics** as a subconsultant to DD&A including:

- Review of materials and analysis conducted by firms outside of the project team
- Some stage-volume analysis as needed to facilitate biological resource impacts
- Communication and coordinating as necessary to facilitate the Coastal and Civil engineering effort and plan development effort
- This task includes meeting and conference call participation for Balance Hydrologics through the development of 30% project plans and the project description and alternatives analysis

Task 6.3: CEQA and NEPA Project and Alternative Descriptions

DD&A will use information prepared in Phase I during preparation of the Conceptual Proposed Action for the Carmel Lagoon Project and will assist the County with development of supplemental information required to prepare a CEQA and NEPA document. As part of this task, DD&A will work with the technical consultants to complete the required maps, graphics, and figures needed to adequately define the project impact areas. DD&A intends to utilize conference calls and meetings described in Task 7 to work collaboratively with the County and the technical consultants (Balance Hydrologics, Whitson Engineers, and Moffatt & Nichol; please see Tasks 6.2 and 6.3 above) to develop the CEQA and NEPA Draft Project and Alternatives Description. DD&A will prepare an Administrative Draft Project and Alternatives Description and submit electronically to the project team (i.e., County, ACOE, National Oceanic and Atmospheric Administration (NOAA) Fisheries, and technical subconsultants) for review and comment. This scope assumes one (1) round of comments each from members of the project team. Based on comments received, DD&A will revise the document and prepare a Draft Project and Alternatives Description for inclusion in the EIR.

Task 6.4: Prepare Draft and Final Notice of Preparation(NOP)/Noticing/Scoping Meeting

The general purpose of the NOP is to solicit guidance from appropriate regulatory agencies, interested parties, and other groups concerning the scope and content of the environmental analysis contained in

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

the EIR. Based upon information supplied by the RMA and technical subconsultants, DD&A will prepare a Draft NOP, which will be electronically submitted to the RMA for review and comment prior to public distribution. The NOP will include a brief project description and identification of potential environmental impacts in accordance with CEQA Guidelines §15082. Upon receipt of RMA comments, DD&A will revise the NOP and electronically submit a final version to the RMA for distribution. This task assumes only one (1) round of comments on the Draft NOP. This task also assumes that the RMA will be responsible for distribution of the NOP, and publishing the NOP in the Monterey County Weekly.

During the course of the 30-day NOP public comment period (see CEQA Guidelines §15082 and §15375), DD&A will facilitate and attend one (1) public scoping hearing. This task will include the preparation of presentation materials, including a PowerPoint presentation, agenda, comment cards, and other materials that may be required. DD&A will be responsible for providing a brief presentation on the nature of the scoping meeting and the general requirements of CEQA, including an overview of the environmental process and anticipated project impacts. All comments received at the scoping meeting and during the NOP comment period will be used to determine the appropriate scope of the environmental analysis contained in the EIR. A summary of the scoping meeting proceedings will be prepared by DD&A and provided to the RMA. In addition, a summary of NOP comments will be prepared by DD&A and provided to the RMA at the end of the public review period. Comments on technical issue areas will also be forwarded to the appropriate technical subconsultants to ensure that their analyses adequately address identified environmental concerns. This task assumes that the RMA will be present at the scoping meeting to facilitate and participate in presenting information about the project.

Task 6.5: Prepare 1st Administrative Draft EIR/EA

DD&A will prepare a Joint Administrative Draft EIR/EA for the project in accordance with CEQA Guidelines (including §15120 through §15131), NEPA Regulations, and ACOE NEPA Guidelines. The EIR/EA will describe the project and the existing environmental conditions. The impact analysis will apply specific thresholds for determining the significance of impacts, consistent with criteria set forth in CEQA/NEPA, County standards, and applicable case law. Impacts evaluated include direct, indirect, construction/short-term, operational/long-term, growth inducing, and Irreversible. Feasible mitigation measures will be identified to avoid or reduce significant impacts to the extent possible or to compensate, if necessary. The alternatives section will include a description of the extensive range and breadth of alternatives that have been included in previous studies and a comparative analysis of up to three (3) alternative solutions to meet the overall project objectives, plus the No Project Alternative (which will not meet the project objectives). The alternatives selected for comparison will focus on feasible alternatives that can reduce those significant impacts in the EIR/EA for which the effectiveness of mitigation cannot be confirmed with certainty.

DD&A will prepare the EIR/EA, based on a field review, consultation with RMA and key agency staff, stakeholders, and the project technical team (including engineer), existing information in local sources and maps, background information in previously prepared environmental documentation, project-specific technical and design studies/ recommendations, and our extensive library of resources and

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

knowledge of the area. The tasks described below are those anticipated necessary to complete the CEQA and NEPA process based upon the methodology and assumptions above.

The EIR/EA will be prepared concisely and to a level of detail necessary to assist the RMA and ACOE in achieving the following ultimate actions:

- ♦ Issuance of a FONSI by the ACOE demonstrating compliance with NEPA, and
- ♦ Certification of an EIR and Adoption of a Mitigation Monitoring and Reporting Program (MMRP) by Monterey County demonstrating compliance with CEQA.

Key environmental topics are discussed individually below; these topics will be specifically addressed in the EIR/EA, in addition to all other elements required by CEQA Guidelines and ACOE NEPA Regulations. For each environmental topic, the EIR/EA will include a discussion of existing conditions and will identify potential environmental impacts of the project using significance criteria (i.e., thresholds of significance) to determine the level of impact for each identified issue. The project impact section will present potentially significant impacts, and identify mitigation that avoids, eliminates, or reduces impacts to a less-than-significant level, where feasible.

Aesthetics: *The Carmel River State Beach is a popular and extremely high quality recreational and scenic site located in the Coastal Zone. Multi-million dollar homes and a high end resort are adjacent to the Lagoon and pristine and treasured views of Point Lobos and natural habitat are afforded the public throughout the site and vicinity. Aesthetics impacts of construction of the physical solutions for Lagoon Management are thus a critical issue for the EIR/EA. The EIR/EA will describe the aesthetic conditions of the site before and after the key structural improvements of the project are installed, including photographs from key vantage points and photosimulations from up to five (5) key vantage points of the site, if detailed plans are available for those improvements. Significant impacts will be identified and mitigation provided to reduce the aesthetic impacts.*

Air Quality: *Air quality during construction is a key issue of the Carmel Lagoon Project due to the proximity of the sites to sensitive residential receptors. The EIR/EA will describe the air quality of the area and provide an assessment of the potential air quality impacts of the project. This analysis will include the following:*

- ♦ Description of the existing meteorological characteristics and air quality in the project area, and identification of sensitive receptors affected by the project (e.g., residences, etc.).
- ♦ Discussion of the relevant federal, state, and local regulatory provisions regarding air pollutant emissions.
- ♦ Address short-term air quality impacts during construction, resulting from dust and exhaust emissions from construction activities. Address any long-term impacts from project implementation on air quality, such as on-site power generators using diesel.
- ♦ Identify mitigation for significant impacts.

Biological Resources: *Biological resource impacts (in addition to flooding) are critical to the project and integrated into the project goals and purpose. This task will summarize the results of*

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

the Biological Resources Report, including documenting potential impacts on biological resources (plant and wildlife species and habitat). The previously described biological reports will be appended to the various drafts of the EIR/EA. The report and section will address the following:

- ♦ Describe existing biological resources on and surrounding the project site.
- ♦ Assess benefits and impacts to the important, sensitive habitat and resource areas, due to construction disturbance, proposed operational maintenance activities.
- ♦ Identify known or potential special-status species present.
- ♦ Analyze direct, indirect, and cumulative impacts of project.
- ♦ Identify mitigation for significant biological impacts, including the potential need for a Lagoon Restoration and Management Plan, if not already completed at the time the EIR/EA is prepared.

DD&A biologists will survey the project area to assess the environmental conditions of the site and its surroundings. The field review will provide an evaluation of general habitat features and environmental constraints at the project site and within the local vicinity. DD&A will identify any potential sensitive habitat areas, document any wildlife observed during the surveys, and identify potential habitat for special-status wildlife species. DD&A will conduct focused botanical surveys in accordance with the California Department of Fish and Wildlife (CDFW), United States Fish and Wildlife Service (USFWS), and California Native Plant Society (CNPS) survey protocols during the spring and summer of 2014 to identify any special-status plant species within the project site. DD&A will map locations of special-status plant species and sensitive habitat using a Trimble ProXH GPS. DD&A will consider the type, acreage, and quality of the impacted habitats to determine the appropriate mitigation habitat type and acreage (as dictated by impact to mitigation ratios) that may be required to compensate for project impacts to sensitive habitats and special-status plants and wildlife. DD&A will develop impact-to-mitigation ratios by habitat to ensure no net loss of habitat function and value. The ratios will reflect the feasibility of restoring habitat, the quality of the impacted habitat, the amount of time that shall be required for the mitigation habitat to develop to a fully functional condition, the uniqueness of the impacted habitat, and the typical regulatory agency requirement standards.

Please note that this scope and budget does not include protocol-level special-status wildlife species surveys.

Climate Change and Greenhouse Gas: *Climate change is anticipated to have an effect on sea level, frequency and intensity of storm events, and on biological resources due to changes in precipitation and temperatures. The Carmel River Lagoon is home to sensitive species that will be subject to weather extremes, in particular, the site is exposed to a dynamic interface between the marine and freshwater river system. For these reasons, the climate change adaptation is a key project issue. The EIR/EA will address greenhouse gas (GHG) emissions and climate change issues that may be associated with the project. Mitigation measures in the EIR/EA and management solutions generated during regulatory coordination must consider all indirect effects of climate change on the lagoon's resources, nearby infrastructure and properties, and site users. Emission factors for construction emissions and emissions from energy usage would*

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

be calculated based on the predicted electricity demand and fossil fuel use. Standard methodologies of the state and various air districts set forth by the Monterey Bay Unified Air Pollution Control District (MBUAPCD) will be used to evaluate impacts from GHG emissions, since these are based on substantial evidence. The project's GHG emissions will be compared to existing thresholds to determine whether the project would result in a cumulative contribution to GHG emissions. Although not anticipated due to the nature and scope of the project, if the project would result in a potentially significant (cumulatively considerable) impact, the EIR will contain mitigation to reduce the impact.

Cultural Resources: *Historic agricultural uses and structures are known to be located in the vicinity of the Carmel Lagoon. In addition to the historic agricultural uses and associated structures, the coastal terrace adjacent to the south side of the beach has such important Native American archaeological significance that it was designated as the Ohlone Coastal Cultural Preserve by the State Park and Recreation Commission. Surveys of the coastal terrace were conducted by State Parks archeologists in 1986. This Cultural Preserve is located adjacent to the area where equipment creates the high-level outlet channel. In addition bedrock mortars exist in the rocks that underlie the beach.* The EIR/EA will address potential cultural resource impacts of the project, based on existing information available for the site and a preliminary cultural resources reconnaissance by **Archaeological Consulting**. In addition, assistance with the Section 106 compliance process is included as the federal lead agency has requested that the County provide assistance and support during the NEPA process. Archaeological Consulting will provide assistance with Section 106 compliance. DD&A's GIS specialists will provide accurate and all-encompassing area of potential effect (APE) mapping in an acceptable format to the ACOE. This scope assumes that iterative changes to the APE do not occur after the Section 106 work commences. During the preliminary archaeological work, the project site will be reviewed to determine potential for archaeological resources based upon available information. Measures will be identified to protect any possible archaeological resources that may be uncovered during construction.

Geology and Soils: *The Carmel Lagoon Project may result in, or be subject to, geotechnical impacts associated with placing structures on loose soil that is subject to inundation and liquefaction, and the project would involve earthwork (e.g., grading, trenching, and excavation), inducing geotechnical hazards such as erosion.* Design measures may be required to assure mitigation of soil or geotechnical hazards. The geologic and geotechnical hazards on the site will be addressed in the EIR/EA, based on available geotechnical reports previously prepared for similar projects in the area, as well as existing information provided in existing documentation. This section will address the following:

- ♦ Describe potential geologic and geotechnical hazards on the site.
- ♦ Evaluate potential geotechnical issues including seismic, soil conditions and hazards (such as expansive or weak soils), proposed grading, and erosion relying upon the previous provided expertise of the existing project engineer team (**Pacific Geotechnical Engineering**, Moffatt & Nichol) supplemented by additional CEQA-specific required qualitative impacts analysis by

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

Moffatt & Nichol related to beach berm, scour potential of the ocean on the scenic road bluff.

- ♦ Incorporate recommendations/mitigation of significant impacts.

Hazardous Materials: *Hazardous materials would be introduced to the site during construction, and possibly, during operation. The EIR/EA will describe the use, storage, and transport of hazardous materials during construction, and if applicable, operation of the various structural improvements. Potential impacts would be evaluated, including new and increased use of hazardous materials. Standard BMPs required by regulatory requirements of the local fire department, Monterey County, Department of Toxic Substance Control, and U.S. Environmental Protection Agency (EPA) will be identified. These requirements typically avoid significant impacts related to accidental release of chemicals used onsite. Note: Flood hazards will be assessed in the Hydrology and Water Quality section.*

Hydrology/Water Quality: *Hydrology and water quality (in addition to biological resources) issues are critical to the project and integrated into the project goals and purpose. The key issues related to the environmental review include:*

- ♦ *Lagoon levels and flooding conditions (currently and with the project),*
- ♦ *Storm water and drainage design related to surface flows from adjacent areas towards the future EPB and the methodology to divert that flow around the EPB, and*
- ♦ *Water quality in any discharges to the lagoon, beach and ocean due to the designation by the Department of the Carmel Bay Area of Special Biological Significance and the associated General Exception rules requiring monitoring of ocean water quality and limiting pollutant discharges and concentrations in storm water entering the Carmel Area of Special Biological Significance (ASBS).*

The EIR/EA will describe the proposed facilities, and evaluate any alterations of the existing drainage patterns or in groundwater or surface water hydrology, and the changes in storm water runoff resulting from the project based on information in the technical documents previously prepared for the Carmel Lagoon as supplemented by a qualitative analysis of CEQA-related impacts to be prepared by Balance Hydrologics and Moffatt & Nichol. Mitigation will be identified as necessary for any significant impacts, including recommending water quality mitigation for eliminating pollutants to the ASBS. This section will also address potential water quality impacts during and after construction of the proposed project. Appropriate BMPs and other mitigation will be identified for potential water quality impacts, as required by the Regional Water Quality Control Board.

Land Use/Consistency with Plans: *The project site is located within CA State Parks, the Coastal Zone, and County jurisdictional areas. The Odello East project is located within Caltrans right of way. The EIR/EA will describe existing onsite and surrounding uses, and identify any potential conflicts between the proposed project and existing uses. This section will evaluate the consistency of the proposed project with the policies of applicable land use plans, policies, or regulations of agencies with jurisdiction over the project, including, but not limited to, the*

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

Monterey County General Plan and the California Coastal Act applicable policies. This section will also identify mitigation for significant impacts.

Recreation: *Recreational access issues of the project are critical during construction and after the EPB and Scenic Road are constructed, given that the project sites would be located within or adjacent to the boundaries of Carmel River State Beach, a coastal park with passive recreational use that currently provides access along its entire boundary (very few physical barriers to access). Visitors enjoy recreational activities that include sunbathing, beachcombing, bird-watching, swimming, SCUBA diving and picnicking. Current facilities within the park consist of one public parking lot, a series of trails and two public restrooms. The EIR/EA will address the impacts to recreational facilities and access during construction and after completion of structural improvements. This section will also identify mitigation for significant impacts.*

Noise: *Noise during construction and operation is a key issue of the Carmel Lagoon Project due to the proximity of the sites to sensitive residential receptors that currently experience very low noise levels. Noise sources associated with the project would include construction equipment and operational pumping. Such sources could contribute to increased noise levels beyond the project's boundaries with adequate buffering (i.e., generic noise control). The EIR/EA will contain the following information regarding noise:*

- ♦ Existing Baseline Conditions will be assumed using published information on existing ambient noise levels in the area.
- ♦ Noise levels from project operations will be quantified and projected out to sensitive receptor locations.
- ♦ Noise levels during construction will be estimated for each major phase of the construction period. Generic data for public infrastructure construction sites will be used in this analysis.
- ♦ Significance thresholds will be based upon local ordinances, regulations, standards, plans, and policies.
- ♦ Relative increase in, and absolute, noise levels will be assessed to determine whether or not the project would cause a substantial increase in noise at sensitive receptors in the vicinity of the project or result in noise levels exceeding limits established in applicable ordinances, regulations, and standards. Significant noise impacts would be identified.
- ♦ If significant noise impacts are identified, mitigation measures will be recommended, including, but not be limited to, generic noise control treatments around major noise sources, the establishment of noise performance standards for the proposed project, or other physical or administrative controls.

Public Services/Utilities: *Public emergency services to the site are provided by California State Park Rangers/Peace Officers, the Monterey County Sheriff's Office, the California Department of Forestry and Fire Protection – Cypress Fire District, and the Carmel Highlands Fire District. The nearest school is Carmel River Elementary School (located immediately north of the lagoon). The EIR/EA will address these issues, as follows:*

- ♦ Address the anticipated project demands on public services, including police, fire protection and any other affected public services.

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

- ♦ Address the impacts on schools.
- ♦ Address the anticipated project demands on utilities and service systems, including water supply/service, wastewater treatment, and solid waste disposal.
- ♦ Evaluate the impacts of, and need for, new infrastructure due to the project based upon information provided by the County and DD&A's consultation with local service/utility providers.
- ♦ Identify any significant impacts and appropriate mitigation for any impacts to services and utilities.

Socioeconomic: The socioeconomic section of the EIR/EA will be pursuant to NEPA and ACOE requirements (i.e., this issue is only relevant to CEQA if a socioeconomic issue, or project result, would cause in an indirect physical environmental change resulting in a significant impact). DD&A will collect the necessary socioeconomic information to determine the baseline conditions for the project's affected environment, to be defined as coastal Monterey County. Data on population and demographics, current economic structure (e.g., identification of the principal industrial sectors, employment and annual output), and projections of the future population growth and economic development. The Carmel Lagoon Project will result in construction-related and operational costs impacting certain community members. This section will present cost information available from existing sources.

Environmental Justice: Socioeconomic issues relevant to the evaluation of environmental justice impacts include employment, population, housing, ethnicity of population, and poverty status. DD&A will prepare the environmental justice section of the EIR/EA pursuant to NEPA and ACOE requirements. The section will describe existing economic and demographic conditions at the appropriate geographic levels. Environmental justice issues encompass a broad range of impacts, including impacts on the natural or physical environment and interrelated social, cultural and economic effects. This environmental justice analysis will focus on ensuring that minority and low-income populations get an equal share of the project benefits without carrying the environmental burden of service development (construction impacts). This analysis will be supported by sufficient information for the public to understand the rationale for the conclusion and will be presented as concisely as possible, using language that minimizes use of acronyms or jargon.

Other Topics

Cumulative and Irreversible and Irretrievable Commitment of Resources: In accordance with NEPA and CEQA requirements, the EIR/EA will analyze potentially significant cumulative impacts anticipated from the project combined with projects that are proposed, planned, and/or underway within the subject geographic area and other local jurisdictions. The analysis will be based on a list of proposed or anticipated projects in the area, consultation with the RMA and the federal lead agency, and the County General Plan.

Project Alternatives Analysis: In accordance with CEQA and NEPA, the EIR/EA needs to discuss alternatives to the proposed action, including the no-action alternative, which were considered

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

and could feasibly meet the project objectives and potentially avoid or lessen any significant environmental impacts associated with the project. DD&A will rely upon the existing engineering and hydrologic work products conducted by the County and their team of engineers and hydrologists, and the key agencies to determine the feasible alternatives to be addressed. The EIR/EA will discuss the preferred alternative and identify any other alternatives considered (up to three (3), in addition to the No Action alternative). This alternatives analysis may be presented as a range of overarching management policies, or major changes to one or more of the projects. Also, the alternatives analysis may be utilized to look at various combinations of projects implemented in the future. The alternatives will be discussed qualitatively in terms of their impacts and their effectiveness in addressing identified significant adverse project impacts. If additional quantitative and/or modeling information is needed regarding feasibility or environmental impacts of the Carmel Lagoon Project from Whitson Engineers, Moffatt & Nichol, and/or Balance Hydrologics, DD&A will engage with those entities with a scope of work adjustment to provide that information. The alternatives analysis will include the following:

- ♦ Qualitatively analyze a range of feasible alternatives.
- ♦ Summarize other alternatives identified which are not feasible, with rationale for rejection (i.e., size, access, etc.).
- ♦ Analyze the project alternatives in accordance with NEPA and CEQA requirements.
- ♦ Identify an environmentally superior alternative, based on the number and degree of associated environmental impacts.

Other Sections: The EIR/EA will also address other issues and include other sections, as listed below.

- ♦ Permitting, Consultation and Coordination Section
- ♦ List of Environmental Commitments
- ♦ List of Preparers and Reviewers/References
- ♦ Growth Inducing Impacts
- ♦ Effects Found to be Less Than Significant

DD&A will submit up to five (5) hard copies of the 1st Administrative Draft EIR/EA to the Monterey County RMA, as well as in electronic format.

PHASE 2: TASK 7: CEQA/NEPA MEETINGS AND PROJECT MANAGEMENT/ADDITIONS

DD&A proposes the following conference calls and meetings in Phase 2 of this scope of work. The DD&A Team has included attendance at the following meetings for the team:

Task 7.1: Meetings

DD&A has included eight (8) meetings at the County offices by the CEQA/NEPA lead by up to two DD&A staff for each meeting.

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

Task 7.2: Conference Calls

DD&A has included eight (8) total one-hour phone calls by the CEQA/NEPA lead by up to two DD&A staff for each conference call.

Task 7.3: Project Management

DD&A will provide project management services, including subconsultant administration and management, status progress reporting and tracking, schedule and budget monitoring and reporting, and client/agency coordination up to the total estimated budget provided.

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

Denise Duffy & Associates, Inc. Reallocated Budget as of April 30, 2014						
PHASE 2 TASKS, AS ORIGINALLY OUTLINED IN EXHIBIT A OF THIS PROFESSIONAL SERVICES AGREEMENT						
TO BE REPLACED AND CREDITED IN						
EXHIBIT A-1, SCOPE OF SERVICES/PAYMENT PROVISIONS						
Task Number	Task Description	Billed To Date	Agreement Amount	Budget Remaining as of 4/30/14	Phase 2 Credit Amount	
	Phase 2					
6	Programmatic CEQA and NEPA Documents					
6.1	CEQA/NEPA Project and Alternatives Description	\$583.00	\$16,660.00	\$16,077.00	\$16,077.00	
6.2	Preliminary Programmatic Initial Study Checklist	\$0.00	\$7,110.00	\$7,110.00	\$7,110.00	
6.3	1st Admin Draft Programmatic IS/EA	\$30,059.00	\$110,010.00	\$79,951.00	\$79,951.00	
6.4	2nd Admin Draft Programmatic IS/EA	\$0.00	\$5,631.00	\$5,631.00	\$5,631.00	
6.5	Screen-Check & Public Review Draft Programmatic IS/EA	\$0.00	\$2,472.00	\$2,472.00	\$2,472.00	
6.6	RTC & Prepare Programmatic Draft Final IS/EA	\$0.00	\$9,712.00	\$9,712.00	\$9,712.00	
6.7	Prepare Final IS/EA	\$0.00	\$5,314.00	\$5,314.00	\$5,314.00	
7	CEQA/NEPA Meetings and Project Management					
7.1	County Staff/Consultants Meetings	\$7,726.75	\$8,833.00	\$1,106.25	\$1,106.25	
7.2	Conference Calls	\$5,003.00	\$5,003.00	\$0.00	\$0.00	
7.3	Project Management	\$2,030.25	\$6,975.00	\$4,944.75	\$4,944.75	
8	OPTIONAL TASKS					
8.1	NHPA Section 106 & Indian Trust Assets Compliance	\$0.00	\$6,065.00	\$6,065.00	\$6,065.00	
TOTAL		\$45,402.00	\$183,785.00	\$138,383.00	\$138,383.00	

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

[illegible]

EXHIBIT A -1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

PAYMENT PROVISIONS

Invoices for services / work products / deliverables under the AGREEMENT shall be submitted when the work product is complete, shall identify the document or work product being delivered and shall include the following:

1. Invoice Coversheet

Denise Duffy & Associates, Inc.

Focused Environmental Impact Report for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan (RFP #2012-CRL-1) for Phases 1 and 2

Date: _____

Invoice No. _____

Original Agreement Term: April 23, 2013 – April 23, 2014

Original Agreement Amount: \$353,100

Amendment No. 1: Extension of Term to April 23, 2015

Amendment No. 2: \$193,571.00

This Invoice: Phase 2 Environmental Documentation CEQA/NEPA (EIR/EA)

6.0

CEQA and NEPA Documents/Additions

6.1 \$48,416.00 Coastal Engineering Analysis, Design and 30% Plans for SRPS

6.2 \$61,641.00 Civil and Hydrological Engineering, Analysis, Design and 30% Plans for EPB

6.3 \$10,892.00 CEQA/NEPA Project and Alternatives Description (assumes 2 drafts)

6.4 \$13,589.00 Draft and Final NOP/Noticing/Scoping Meeting

6.5 1st Administrative Draft EIR/EA

\$4,668.00 Introduction, Executive Summary

\$9,188.00 Affected Environment/Environmental Setting

Impacts and Mitigated Measures Sections:

\$4,149.00 - Aesthetics

\$7,725.00 - Air Quality

\$11,353.00 - Biological Resources - Terrestrial

\$15,805.00 - Biological Resources - Marine

\$8,481.00 - Climate Change and Greenhouse Gas Emissions

\$14,178.00 - Cultural Resources

\$8,811.00 - Geology and Soils

\$2,345.00 - Hazards and Hazardous Materials

\$14,989.00 - Hydrology/Water Quality/Sea Level Rise

\$5,569.00 - Land Use/Consistency with Plans/Recreation

\$3,775.00 - Noise

\$3,135.00 - Public Service and Utilities

\$3,961.00 - Socioeconomics/Environmental Justice

EXHIBIT A -1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

			- Cumulative and Irreversible and Irretrievable Commitment of Resources	
		\$7,813.00		
		\$17,856.00	- Project Alternatives Analysis	
			Other Sections	
		\$3,666.00	- Permitting, Consultation and Coordination Section	
		\$3,932.00	- List of Environmental Commitments	
		\$2,157.00	- List of Preparers and Reviewers/References	
		\$2,501.00	- Growth Inducing Impacts	
		\$3,006.00	- Effects Found to be Less Than Significant	
7.0			CEQA/NEPA Meetings and Project Management/Additions	
	7.1	\$16,233.50	County Staff/Consultants Meetings	
	7.2	\$7,777.50	Conference Calls	
	7.3	\$14,342.00	Project Management	
Total of New Phase 2 Tasks:		\$331,954.00		
Credit for Replaced Phase 2 Tasks:		-\$138,383.00		
Total of Increase for Amendment No. 2:		\$193,571.00		

Remaining Balance \$ _____

Approved as to Work/Payment: _____
John H. Ford, Planning Services Manager

Date

All Invoices Are To Be Sent To:
Jaime Martinez, Accounting Technician
County of Monterey Resource Management Agency - Finance Division
168 W. Alisal Street, 2nd Floor, Salinas, CA 93901
Telephone: (831) 755-4829

2. Invoice Detail

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

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

Date (MM/DD/YR)
11/7/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Heffernan Professional Practice Insurance Brokers
License No. 0564249
6 Hutton Centre Dr., Ste 500
Santa Ana, CA 92707

RECEIVED
NOV 12 2013

CONTACT
NAME: Jackie Riola
PHONE (A/C, No, Ext): 714-361-7700 FAX (A/C, No): 714-361-7701
EMAIL: JackieR@heffins.com
ADDRESS:

INSURERS AFFORDING COVERAGE

INSURER	NAIC #
INSURER A: Citizens Insurance Co of America	31534
INSURER B: Hanover American Insurance Co	36034
INSURER C: Continental Casualty Co	20443
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Denise Duffy & Associates, Inc. PUBLIC WORKS - ADMIN
947 Cass St., Ste 5
Monterey, CA 93940

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL L LIABILITY						EACH OCCURRENCE \$1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		OB3916991202	09/01/13	09/01/14	MED EXP (Any one person) \$5,000
							PERSONAL & ADV INJURY \$1,000,000
							GENERAL AGGREGATE \$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER						PRODUCTS - COMPROP AGG \$2,000,000
	POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC						\$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$1,000,000
	ANY AUTO						BODILY INJURY (Per person) \$
	ALL OWNED AUTOS			OB3916991202	09/01/13	09/01/14	BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED RETENTION \$						\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N					<input checked="" type="checkbox"/> WC STATUTORY LIMITS OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? (Mandatory in N.H.)	<input type="checkbox"/>	N/A	WZ3916990602	09/01/13	09/01/14	E.L. EACH ACCIDENT \$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$1,000,000
							E.L. DISEASE - POLICY LIMIT \$1,000,000
C	PROFESSIONAL LIABILITY			EEH276198480	11/05/13	11/05/14	Per Claim Aggregate \$1,000,000 \$2,000,000

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

Projects as on file with the insured including but not limited to Big Sur Erosion Control. County of Monterey, its officers, agents and employees are named as additional insureds on general liability policy-see attached endorsement.

CERTIFICATE HOLDER

CANCELLATION

County of Monterey
168 W. Alisal St., 2nd Fl.
Salinas, CA 93901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY SUPPLEMENTARY ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

I. Additional Insured by Contract, Agreement or Permit

Under SECTION II - LIABILITY, C. Who Is An Insured, Paragraph 4. is added as follows:

- a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

but only with respect to:

- (3) "Your work" for the additional insured(s) at the location designated in the contract, agreement or permit; or
- (4) Premises you own, rent, lease, control or occupy.

This insurance applies on a primary basis if that is required by the written contract, agreement or permit.

- b. This provision does not apply:

- (1) Unless the written contract or written agreement has been executed or permit has been issued prior to the "bodily injury", "property damage" or

"personal and advertising injury";

- (2) To any person or organization included as an insured by an endorsement issued by us and made part of this Policy;

- (3) To any lessor of equipment:

(a) After the equipment lease expires; or

(b) If the "bodily injury", "property damage" or "personal and advertising injury" arises out of the sole negligence of the lessor;

- (4) To any:

(a) Owners or other interests from whom land has been leased which takes place after the lease for that land expires; or

(b) Managers or lessors of premises if:

(i) The occurrence takes place after you cease to be a tenant in that premises; or

(ii) The "bodily injury", "property damage" or "personal and advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor; or

- (5) To "bodily injury", "property damage" or "personal and

advertising injury" arising out of the rendering of or the failure to render any professional services. This includes but is not limited to any professional services as an architect or engineer arising out of any construction agreement or activities under which any insured or anyone acting on any insured's behalf provides or provided service, advice, expertise or work. Construction includes, but is not limited to, the plan, conception, design, build, construct, assembly, development, safety, erection, formation, reconstruct, rehabilitation, repair, or any improvement made to real property. Construction also includes the hiring, supervision or management of any of these activities. However, this exclusion does not apply to liability arising out of an insured's presence at a jobsite that was not caused by professional activities listed in the above paragraph.

- c. Additional insured coverage provided by this provision will not be broader than coverage provided to any other insured.
- d. All other insuring agreements, exclusions, and conditions of the policy apply.

II. Additional Insured by Contract, Agreement or Permit – Primary and Non-contributory

The following is added to SECTION III – COMMON POLICY CONDITIONS:

M. Other Insurance

1. Additional Insureds

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under SECTION II - LIABILITY, Part C – Who is An Insured, is

primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss we cover under SECTION II – LIABILITY, Part A. Coverages, Paragraph 1., Business Liability our obligations are limited as follows:

a. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

- (1) For the sole negligence of the Additional Insured;
- (2) When the Additional Insured is an Additional Insured under another primary liability policy; or
- (3) When b.(2) below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in b.(3) below.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

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

(b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;

(c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner; or

(d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability.

When this insurance is excess, we will have no duty under SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

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

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

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

c. Method Of Sharing

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

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

III. Aggregate Limit of Insurance (Per Project)

a. For purposes of the coverage provided by this endorsement, D. Liability and Medical Expenses Limits of Insurance under Section II – Liability is amended by adding the following:

The General Aggregate Limit under D. Liability and Medical Expenses Limits of Insurance applies separately to each of "your projects" or each location listed in the Declarations.

- b. For purposes of the coverage provided by this endorsement F. **Liability And Medical Expenses Definitions** under **Section II - Liability** is amended by adding the following:

a. "Your project" means:

- i. Any premises, site or location at, on, or in which "your work" is not yet completed; and
- ii. Does not include any location listed in the Declarations.

IV. Blanket Waiver of Subrogation

Paragraph K. **Transfer Of Rights Of Recovery Against Others To Us** in **Section III - Common Policy Conditions** is amended by the addition of the following:

We will waive any right of recovery we may have against any person or organization when you have agreed in a written contract, permit or agreement to waive any rights of recovery against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".



COUNTY OF MONTEREY

PURCHASE ORDER

ORDER DATE 06-17-2014

DO 3000 0000004959

IMPORTANT

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

DENISE DUFFY & ASSOCIATES

947 Cass Street Ste 5

Monterey CA 93940

S H I P T O
PLANNING & BLDG/ INSPECTION
INSPECTION
168 W. ALISAL ST., 2ND FLOOR
SALINAS CA 93901

B I L L T O
PLANNING & BLDG/ ALISAL
168 W. ALISAL ST
2ND FLOOR
SALINAS CA 93901

VENDOR
VENDOR NUMBER: CV000001806

DELIVERY DATE: F.O.B.:

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	UNIT PRICE	SALES TAX	EXTENDED PRICE
				PURCH DESC: THIS PURCHASE ORDER IS ISSUED TO EXTEND THE TERM OF AGREEMENT PER AMENDMENT NO. 1. THIS IS TO PROVIDE A PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY FOR PROJECTS LOCATED IN THE CARMEL RIVER LAGOON AREA AND A CARMEL RIVER LAGOON RESTORATION AND MANAGEMENT PLAN (MYA *844)			
				THE TERM OF THIS AGREEMENT IS FROM 04/23/13 - 04/23/15 AND SHALL NOT EXCEED \$353,100.00			
				THIS PURCHASE ORDER IS VALID FROM 07/01/13 - 06/30/14 AND SHALL NOT EXCEED \$305,927.55.			
				*****CHANGE ORDER*****			
				THIS CHANGE ORDER IS ISSUED TO INCREASE THE AGREEMENT BY \$193,571.00 PER AMENDMENT NO. 2.			
				THIS PURCHASE ORDER SHALL NOT EXCEED \$499,498.55 AND THE AGREEMENT SHALL NOT EXCEED \$546,671.00			
1	0.0		92642	COMM LINE DESC: Env Svc (Not Otherwise Classified)	.00	.00	499,498.55
				EXTENDED DESC: PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY - CARMEL RIVER LAGOON			
				MSDS: Not Required			
			001 - 1050 - 8038 - CAO017 - 6613 - - - - 499498.55				

THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY

ORDER TOTAL 499,498.55

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. Ten

COUNTY BUYER INFORMATION

TELEPHONE:

EMAIL:

PRINT DATE: 06/23/14

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

PAGE NUMBER: 1 OF 1

Attachment 9

This page intentionally left blank.

**AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
DENISE DUFFY & ASSOCIATES, INC.**

THIS AMENDMENT NO. 1 to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Denise Duffy & Associates, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement with County on May 1, 2013 (hereinafter, "Agreement"); and

WHEREAS, Task 1, Project Initiation and Scope Confirmation, Task 2, Data Collection and Technical Input, and Task 3, Carmel Lagoon Projects Conceptual Proposed Action have been completed for Phase 1 to provide a Programmatic Biological Assessment and Initial Study for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan for Phases 1 and 2 (hereinafter, "Project"); and

WHEREAS, additional time is required to allow CONTRACTOR to continue to provide tasks to complete the Project; and

WHEREAS, the Parties wish to amend the Agreement to extend the term to April 23, 2015 with no associated dollar amount increase to allow CONTRACTOR to continue to provide tasks identified in the Agreement.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

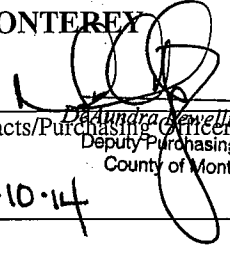
The term of this Agreement is from April 23, 2013 to April 23, 2015, unless sooner terminated pursuant to the terms of this Agreement.

2. All other terms and conditions of the Agreement remain unchanged and in full force.
3. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 1 to Professional Services Agreement
Denise Duffy & Associates, Inc.
Carmel River Lagoon Area Projects
RMA – Planning
Term: April 23, 2013 – April 23, 2015
Not to Exceed: \$353,100.00

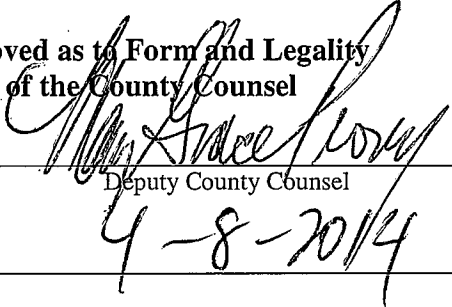
IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement as of the last date opposite the respective signatures below:

COUNTY OF MONTEREY

By: 
Contracts/Purchasing Officer, MBA
Deputy Purchasing Agent
County of Monterey

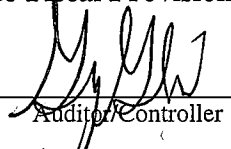
Date: 4.10.14

**Approved as to Form and Legality
Office of the County Counsel**

By: 
Deputy County Counsel

Date: 4-8-2014

Approved as to Fiscal Provisions

By: 
Auditor/Controller

Date: 4-3-14

Approved as to Indemnity, Insurance Provisions

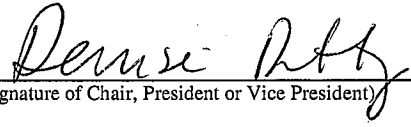
By: _____
Risk Management

Date: _____

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

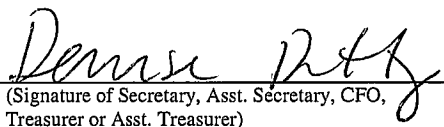
CONTRACTOR*

Denise Duffy & Associates, Inc.
Contractor's Business Name

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

Its: Denise Duffy, President
(Printed Name and Title)

Date: 4/2/14

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

Its: Denise Duffy, Secretary
(Printed Name and Title)

Date: 4/2/14

Amendment No. 1 to Professional Services Agreement
Denise Duffy & Associates, Inc.
Carmel River Lagoon Area Projects
RMA - Planning
Term: April 23, 2013 - April 23, 2015
Not to Exceed: \$353,100.00

ACORD™ CERTIFICATE OF LIABILITY INSURANCEDate (MM/DD/YR)
11/7/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Heffernan Professional Practice Insurance Brokers
License No. 0564249
6 Hutton Centre Dr., Ste 500
Santa Ana, CA 92707

CONTACT NAME: Jackie Riola
PHONE (A/C, No, Ext): 714-361-7700 **FAX (A/C, No):** 714-361-7701
EMAIL ADDRESS: JackieR@heffins.com

INSURERS AFFORDING COVERAGE **NAIC #**

INSURER A:	Citizens Insurance Co of America	31534
INSURER B:	Hanover American Insurance Co	36034
INSURER C:	Continental Casualty Co	20443
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
Denise Duffy & Associates, Inc.
947 Cass St., Ste 5
Monterey, CA 93940

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL L LIABILITY						EACH OCCURRENCE \$1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		OB3916991202	09/01/13	09/01/14	MED EXP (Any one person) \$5,000
							PERSONAL & ADV INJURY \$1,000,000
							GENERAL AGGREGATE \$2,000,000
							PRODUCTS - COMP/OP AGG \$2,000,000
A	GEN'L AGGREGATE LIMIT APPLIES PER						\$
	POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$1,000,000
	ANY AUTO						BODILY INJURY (Per person) \$
	ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS	X		OB3916991202	09/01/13	09/01/14	BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED RETENTION \$						\$
B	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY	Y/N					<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? (Mandatory in N.H.)	<input type="checkbox"/>	N/A	WZ3916990602	09/01/13	09/01/14	E.L. EACH ACCIDENT \$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$1,000,000
							E.L. DISEASE - POLICY LIMIT \$1,000,000
C	PROFESSIONAL LIABILITY			EEH276198480	11/05/13	11/05/14	Per Claim Aggregate \$1,000,000
							\$2,000,000

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

Projects as on file with the insured including not limited to Carmel Lagoon Project. The County of Monterey, Its Officers, Agents and Employees are named as additional insured (primary) on General Liability and Automobile Liability policies per the attached endorsement.

CERTIFICATE HOLDER

County of Monterey
Resource Management Agency
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY SUPPLEMENTARY ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

I. Additional Insured by Contract, Agreement or Permit

Under **SECTION II – LIABILITY, C. Who Is An Insured**, Paragraph 4. is added as follows:

- a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

~~(1) Your acts or omissions; or~~

- (2) The acts or omissions of those acting on your behalf,

but only with respect to:

- (3) "Your work" for the additional insured(s) at the location designated in the contract, agreement or permit; or

- (4) Premises you own, rent, lease, control or occupy.

This insurance applies on a primary basis if that is required by the written contract, agreement or permit.

- b. This provision does not apply:

- (1) Unless the written contract or written agreement has been executed or permit has been issued prior to the "bodily injury", "property damage" or

"personal and advertising injury";

- (2) To any person or organization included as an insured by an endorsement issued by us and made part of this Policy;

- (3) To any lessor of equipment:

- (a) After the equipment lease expires; or

- (b) If the "bodily injury", "property damage" or "personal and advertising injury" arises out of the sole negligence of the lessor;

- (4) To any:

- (a) Owners or other interests from whom land has been leased which takes place after the lease for that land expires; or

- (b) Managers or lessors of premises if:

- (i) The occurrence takes place after you cease to be a tenant in that premises; or

- (ii) The "bodily injury", "property damage" or "personal and advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor; or

- (5) To "bodily injury", "property damage" or "personal and

advertising injury" arising out of the rendering of or the failure to render any professional services. This includes but is not limited to any professional services as an architect or engineer arising out of any construction agreement or activities under which any insured or anyone acting on any insured's behalf provides or provided service, advice, expertise or work. Construction includes, but is not limited to, the plan, conception, design, build, construct, assembly, development, safety, erection, formation, reconstruct, rehabilitation, repair, or any improvement made to real property. Construction also includes the hiring, supervision or management of any of these activities. However, this exclusion does not apply to liability arising out of an insured's presence at a jobsite that was not caused by professional activities listed in the above paragraph.

- c. Additional insured coverage provided by this provision will not be broader than coverage provided to any other insured.
- d. All other insuring agreements, exclusions, and conditions of the policy apply.

II. Additional Insured by Contract, Agreement or Permit – Primary and Non-contributory

The following is added to **SECTION III – COMMON POLICY CONDITIONS:**

M. Other Insurance

1. Additional Insureds

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **SECTION II - LIABILITY, Part C – Who is An Insured**, is

primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss we cover under **SECTION II – LIABILITY, Part A. Coverages, Paragraph 1., Business Liability** our obligations are limited as follows:

a. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

- (1) For the sole negligence of the Additional Insured;
- (2) When the Additional Insured is an Additional Insured under another primary liability policy; or
- (3) When **b.(2)** below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **b.(3)** below.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

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

(b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;

(c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner; or

(d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of **SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability.**

When this insurance is excess, we will have no duty under **SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

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

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

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

c. Method Of Sharing

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

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

III. Aggregate Limit of Insurance (Per Project)

a. For purposes of the coverage provided by this endorsement, **D. Liability and Medical Expenses Limits of Insurance** under **Section II – Liability** is amended by adding the following:

The General Aggregate Limit under **D. Liability and Medical Expenses Limits of Insurance** applies separately to each of "your projects" or each location listed in the Declarations.

b. For purposes of the coverage provided by this endorsement **F. Liability And Medical Expenses Definitions** under **Section II - Liability** is amended by adding the following:

a. "Your project" means:

- i. Any premises, site or location at, on, or in which "your work" is not yet completed; and
- ii. Does not include any location listed in the Declarations.

IV. Blanket Waiver of Subrogation

Paragraph **K. Transfer Of Rights Of Recovery Against Others To Us** in **Section III - Common Policy Conditions** is amended by the addition of the following:

We will waive any right of recovery we may have against any person or organization when you have agreed in a written contract, permit or agreement to waive any rights of recovery against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALIFORNIA - HIRED AUTO AND NON-OWNED AUTO LIABILITY

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Coverage		Additional Premium
A.	Hired Auto Liability:	\$
B.	Non-Owned Auto Liability:	\$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.		

A. Throughout this endorsement the term spouse means:

Spouse or a registered domestic partner under California law.

B. Insurance is provided only for those coverages for which a specific premium charge is shown in the Declarations or in the Schedule.

1. Hired Auto Liability

The insurance provided under Paragraph A.1. **Business Liability** in **Section II - Liability**, applies to "bodily injury" or "property damage" arising out of the maintenance or use of a "hired auto" by you or your "employees" in the course of your business.

2. Non-Owned Auto Liability

The insurance provided under Paragraph A.1. **Business Liability** in **Section II - Liability**, applies to "bodily injury" or "property damage" arising out of the use of any "non-owned auto" in your business by any person.

C. For insurance provided by this endorsement only:

1. The exclusions, under the Paragraph B.1. **Applicable To Business Liability Coverages** in **Section II - Liability**, other than Exclusions a., b., d., f. and i. and the Nuclear Energy Liability Exclusion, are deleted and replaced by the following:

a. "Bodily injury" to:

(1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) ~~Performing duties related to the~~ conduct of the insured's business; or

(2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

- (2) To any obligation to share damages with or repay someone else who must pay damages because of injury.

This exclusion does not apply to:

- (1) Liability assumed by the insured under an "insured contract"; or
- (2) "Bodily injury" arising out of and in the course of domestic employment by the insured unless benefits for such injury are in whole or in part either payable or required to be provided under any workers compensation law.

b. "Property damage" to:

- (1) Property owned or being transported by, or rented or loaned to the insured; or
- (2) Property in the care, custody or control of the insured.

2. Paragraph C. Who Is An Insured in Section II - Liability, is replaced by the following:

1. Each of the following is an insured under this endorsement to the extent set forth below:

- a. You;
- b. Any other person using a "hired auto" with your permission;
- c. For a "non-owned auto":
- (1) Any partner or "executive officer" of yours; or
- (2) Any "employee" of yours but only while such "non-owned auto" is being used in your business; and
- d. Any other person or organization, but only for their liability because of acts or omissions of an insured under a, b, or c. above.

2. None of the following is an insured:

- a. Any person engaged in the business of his or her employer for "bodily injury" to any co-"employee" of such person injured in the course of employment, or to the spouse, child, parent, brother or sister of that co-"employee" as a consequence of such "bodily injury", or for any obligation to share damages with or repay someone else who must pay damages because of the injury;

- b. Any partner or "executive officer" for any "auto" owned by such partner or officer or a member of his or her household;

- c. Any person while employed in or otherwise engaged in duties in connection with an "auto business", other than an "auto business" you operate;

- d. The owner or lessee (of whom you are a sublessee) of a "hired auto" or the owner of a "non-owned auto" or any agent or "employee" of any such owner or lessee; or

- e. Any person or organization for the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

D. The following additional definitions apply:

1. "Auto Business" means the business or occupation of selling, repairing, servicing, storing or parking "autos".
2. "Hired Auto" means any "auto" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", your partners or your "executive officers" or members of their households.
3. "Non-Owned Auto" means any "auto" you do not own, lease, hire, rent or borrow which is used in connection with your business. This includes "autos" owned by your "employees", your partners or your "executive officers", or members of their households, but only while used in your business or your personal affairs.



COUNTY OF MONTEREY

PURCHASE ORDER

ORDER DATE 04-28-2014

DO 3000 0000004959

IMPORTANT

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

DENISE DUFFY & ASSOCIATES

947 Cass Street Ste 5

Monterey CA 93940

VENDOR: CV000001806

S H P T O
PLANNING & BLDG/INSPECTION
INSPECTION
168 W. ALISAL ST., 2ND FLOOR
SALINAS CA 93901

B I L T O
PLANNING & BLDG/ALISAL
168 W. ALISAL ST
2ND FLOOR
SALINAS CA 93901

DELIVERY DATE: F.O.B.:

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	UNIT PRICE	SALES TAX	EXTENDED PRICE
------	----------	------	----------------	------------------	------------	-----------	----------------

PURCH DESC: THIS PURCHASE ORDER IS ISSUED TO EXTEND THE TERM OF AGREEMENT PER AMENDMENT NO. 1. THIS IS TO
PROVIDE A PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY FOR PROJECTS LOCATED IN THE CARMEL RIVER
LAGOON AREA AND A CARMEL RIVER LAGOON RESTORATION AND MANAGEMENT PLAN
(MYA *844)

THE TERM OF THIS AGREEMENT IS FROM 04/23/13 - 04/23/15 AND SHALL NOT EXCEED \$353,100.00

THIS PURCHASE ORDER IS VALID FROM 07/01/13 - 06/30/14 AND SHALL NOT EXCEED \$305,927.55.

1 0.0 92642

COMM LINE DESC: Env Svc (Not Otherwise Classified)

EXTENDED DESC: PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY - CARMEL RIVER LAGOON

MSDS: Not Required

001 - 1050 - 8038 - CAO017 - 5613 - 305927.55

.00 .00 305,927.55

THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY

ORDER TOTAL 305,927.55

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. Taylor

PRINT DATE: 04/30/14

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

COUNTY BUYER INFORMATION

TELEPHONE:
EMAIL:

Attachment 10

This page intentionally left blank.



Monterey County

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Agreement No.: A-12442

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

- a. Approved a Professional Services Agreement with Denise Duffy & Associates, Inc. to provide a Programmatic Biological Assessment and Initial Study for projects located in the Carmel River Lagoon Area and a Carmel River Lagoon Restoration and Management Plan (RFP #2012-CRL-1) for Phases 1 and 2, in the amount not to exceed \$353,100, for a term to April 23, 2014; and
- b. Authorized the Contracts/Purchasing Officer to execute the Professional Services Agreement and future amendments that do not significantly alter the scope of work or change the approved Agreement amount.

PASSED AND ADOPTED on this 23rd day of April 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on April 23, 2013.

Dated: April 25, 2013
File Number: 13-0399

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

By Denise Hancock
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:

Denise Duffy & 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 a Programmatic Biological Assessment and Initial Study for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan (RFP #2012-CRL-1) for Phases 1 and 2

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 \$ \$53,100.

3. **TERM OF AGREEMENT.** The term of this Agreement is from April 23, 2013 to April 23, 2014, 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 Incorporation of Request for Proposals (RFP) #2012-CRL-1 and Proposal Documents

5. **PERFORMANCE STANDARDS.**

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

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

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

6. PAYMENT CONDITIONS.

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

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

7. TERMINATION.

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

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

8. INDEMNIFICATION.

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	Denise Duffy, Principal-in-Charge
Name and Title	Name and Title
County of Monterey Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901	Denise Duffy & Associates, Inc. 947 Cass Street, Suite 5 Monterey, CA 93940
Address	Address
(831) 755-8966	(831) 373-4341
Phone	Phone

15. MISCELLANEOUS PROVISIONS.

15.01 Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.

15.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.

15.03 Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.

15.04 Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.

15.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.

15.06 Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

15.07 Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.

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

This space is left blank, intentionally.

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

COUNTY OF MONTEREY

CONTRACTOR

By: *Debra Papp*
Purchasing Manager

Date: 1 May 2013

By: _____
Department Head (if applicable)

Date: _____

By: _____
Board of Supervisors (if applicable)

Date: _____

Approved as to Form¹

By: *Debra Papp*
County Counsel

Date: 7-15-13

Approved as to Fiscal Provisions²

By: *Debra Papp*
Auditor/Controller

Date: 4-15-13

Approved as to Liability Provisions³

By: _____
Risk Management

Date: _____

Denise Duffy & Associates, Inc.

Contractor's Business Name*

By: *Denise Duffy*
(Signature of Chair, President, or Vice-President)*

Denise Duffy, President
Name and Title

Date: 4/11/13

By: *Denise Duffy*
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*

Denise Duffy, Secretary
Name and Title

Date: 4/11/13

County Board of Supervisors' Agreement Number: _____

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

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

REVISED SCOPE OF WORK
Programmatic Biological Assessment and Initial Study
For the Carmel Lagoon Projects
Request for Proposal (RFP) #2012-CRL-1
April 2, 2013

As described in the Project Approach, the Denise Duffy & Associates (DD&A) Team proposes to provide biological studies and environmental review services, including the following primary environmental services during Phase 1 of this Scope of Work (Tasks 1–5):

- ♦ Development of a Conceptual Proposed Action description of the proposed Carmel Lagoon Projects,¹ individually and collectively, to a level needed to prepare requested environmental documents.
- ♦ Preparation of Draft Programmatic Biological Assessment (BA), including a Wetland Delineation.

Phase 2 would involve providing California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) compliance services, including preparation of a programmatic environmental document (currently envisioned to be an Initial Study/Environmental Assessment) to enable future, expeditious compliance with the CEQA, and if desired, NEPA, for the Carmel Lagoon Projects.

The following detailed task descriptions demonstrate the DD&A Team's unique understanding of the County's needs, including the need for cost and time efficient completion of certain reports and studies, provision of services based upon early and ongoing, collaborative team effort with County staff, technical experts, and other key agency staff. These tasks are presented with the ultimate goal of being flexible and responsive to the needs of County and to, where applicable, various entities with an interest in the Lagoon Projects while completing environmental documents to enable issuance of regulatory permits for the Lagoon Projects.

¹ The Carmel Lagoon Projects are now understood to include only the Interim Sandbar Management Plan, and the Ecosystem Protection Barrier (EPB) and Scenic Road Protection Projects. Monterey County Service Area-50 (CSA-50) Floodplain Improvements, Odello East Floodplain Restoration and Enhancement, and the Highway 1 Causeway will be excluded from these analyses, except to the extent that they must be qualitatively described and analyzed within any cumulative (future background) conditions analyses in the biological or environmental documents.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK
for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects

PHASE 1: PROGRAMMATIC BIOLOGICAL STUDIES

TASK 1: PROJECT INITIATION AND SCOPE CONFIRMATION

This task was not specifically identified in RFP, but is deemed critical to the success of the project based on consultation with the County staff, including information conveyed at the pre-proposal meeting.

Based upon consultation with the County and the DD&A Team's knowledge of the Carmel Lagoon Projects, this task will include work necessary to initiate the environmental services including the following tasks:

- ♦ Review additional available background information,
- ♦ Conduct initial project management and subconsultant coordination,
- ♦ Attend up to two (2) kick-off meetings with the Resource Management Agency (RMA) and key agencies to discuss the project approach and finalize the scope of work,
- ♦ Identify data needs,
- ♦ Confirm format, quantities and distribution of deliverables, and
- ♦ Establish schedules and protocols for communication.

The DD&A Team will assemble the relevant documents, studies, data, and maps relevant to the project and create a database of these sources to efficiently transmit the most pertinent, required information to all teammates.

TASK 2: DATA COLLECTION AND TECHNICAL INPUT

The work proposed in this task is identified within the RFP in section 3.1.1 and 3.1.2.

The DD&A Team will review relevant background materials and meet with the County and other key team members and agency staff. This is expected to include existing project- and site-specific engineering and environmental documents, and analysis of conditions and projects in and around the Lagoon, as well as, CEQA Guidelines, Army Corps of Engineers (ACOE) and National Oceanic Atmospheric Administration (NOAA) Fisheries Federal Regulations for NEPA compliance, and other pertinent guidance, case law, and regulations, to gain a complete understand of available background materials to satisfy the environmental processing for the project.

Site Visits: DD&A Team members will conduct site visits to assess and document existing environmental conditions. Pre-survey research will be conducted utilizing existing available resources, including all of the following information sources:

- ♦ DD&A Team members' existing files,
- ♦ Readily available on-line sources, such as Carmel River Watershed Conservancy, California Department of Fish and Wildlife (Department), Monterey Peninsula Water Management District (MPWMD) and the County's websites and staff files,

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK

*for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects*

- ✦ California Department of Parks and Recreation (CDPR) existing conditions information currently being developed for their General Plan of the area (if available),
- ✦ California Natural Diversity Data Base (CNDDB),
- ✦ California Native Plant Society (CNPS) lists, and
- ✦ Other published and unpublished materials as related to CEQA/NEPA and resource agency guidance and requirements.

The field review will provide an evaluation of general site features and environmental constraints at the site and within the local vicinity, and provide a basis for recommendations to minimize or avoid impacts. The DD&A Team will depend largely on existing reports on the project area to the greatest extent feasible to identify existing site resources. The results of the research and field visit will be included in the Biological Assessment (see Task 4) and the CEQA and NEPA documents, as applicable. The DD&A Team includes technical experts that are already experts in the Carmel Lagoon and environment, such that the team can initiate work (i.e., hit the ground running) with little initiation time expediting the completion of the environmental documents.

Permitting Agency Coordination: Through existing, ongoing technical advisory committee and stakeholder meeting processes (for example, Carmel Lagoon Technical Advisory Committee), DD&A will be available to communicate and coordinate with the appropriate agencies that have knowledge of affected resources and jurisdiction over, or will be affected by, the project to ensure that potential environmental issues are addressed. We anticipate contacting and/or meeting with representatives of the following agencies in addition to Monterey County RMA and Public Works staff (as directed by RMA) all of which the DD&A team has worked with recently:

Federal Agencies

- ✦ National Marine Fisheries Service (NOAA Fisheries)
- ✦ U.S. Army Corps of Engineers (ACOE)
- ✦ U.S. Fish and Wildlife Service (USFWS)

State Agencies

- ✦ California Coastal Commission (Coastal Commission)
- ✦ California Department of Fish and Wildlife (Department)
- ✦ Department of Parks & Recreation (CDPR)
- ✦ Regional Water Quality Control Board (RWQCB)
- ✦ Department of Water Resources (DWR)

Local and Regional Agencies

- ✦ Monterey Bay Unified Air Pollution Control District (MBUAPCD)
- ✦ Monterey County Water Resources Agency (MCWRA)
- ✦ Monterey County Service Area-50 (CSA-50)
- ✦ Monterey Peninsula Water Management District (MPWMD)
- ✦ Carmel Area Wastewater District (CAWD)

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

Technical Input (Hydrology and Engineering): The DD&A Team has identified key technical data needs that may require supplemental input from consultant team members prior to adequately developing a project description and proposed action for the biological studies and environmental document. As discussed previously, the DD&A Team includes the expertise of the hydrologists and engineers currently engaged by the County on the Ecosystem Protection Barrier (EPB) and Scenic Road Project feasibility and alternatives analyses (Moffatt & Nichol Engineers, Whitson Engineers, and Balance Hydrologics).² These consultants bring to the project the attributes of acquired breadth of knowledge and information to easily address the existing conditions, project/alternatives description and mitigation needs of the environmental document. As needed, their existing work can be amended and supplemented to most efficiently meet the needs of the environmental review analyses. The following key technical input is proposed to be provided by this scope of work:

Coastal Engineering: Moffatt & Nichol (M&N) will work with the DD&A team to summarize the existing setting of the lagoon area from a coastal perspective, and to describe the Scenic Road Protection project and its critical elements. The following key existing conditions will be summarized, based in large part on the prior work completed by the team:

- Carmel River closure frequency and duration, breaching actions, and breach monitoring results from prior work;
- Coastal data (waves, tides, storm frequency, beach build-up characteristics).

A qualitative Geomorphic Processes memorandum, discussing reasons for inlet closure, sand transport processes in the area, and potential bluff erosion issues associated with river migration will be prepared for this task.

Hydrologic/Lagoon and Riverine: Balance Hydrologics (Balance) will work closely with the DD&A team to assemble pertinent technical materials related to the topics of flood control, stormwater management, water quality, groundwater, and lagoonal hydraulics. This work will include a site visit to assess any change in conditions since previous work in the area was completed. The compiled information will be used to prepare a technical memorandum summarizing Lagoon behavior with respect to the factors that may be impacted through project implementation. Particular emphasis will be placed on identifying the impacts that project implementation are expected to have on barrier beach breaching frequency and timing with the concurrent implications for Lagoon maximum and minimum water elevations, depth-duration relationships, and water quality.

- ♦ The work will begin with a compilation of historic lagoon parameters based on past gauging activities (including, but not limited to, stage recorder data from the Lagoon, discharge records from the USGS Carmel River gauge, and records of past beach breaching activities). Analyses of the data will include a range of summary statistics agreed to by the project team such as mean and peak monthly and seasonal lagoon storage, mean and peak inflow and

² In addition, several of the DD&A team members (i.e., Balance, DD&A, and Whitson) have also been working on an ongoing basis on the Odello East Project and were selected to provide services on the CSA-50 project.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

outflow on a monthly and seasonal basis, and frequency and rate of lagoon filling and draining events.

- ♦ As the project work continues, the historical data will be used to estimate changes in parameters as a result of lagoon and beach management for the various alternatives being assessed. Estimates of the same summary statistics will be compiled such that potential changes to key lagoonal parameters can be generalized and contrasted with past Lagoon behavior.
- ♦ The work including methodology, data sources, and discussion of projected lagoon conditions will be compiled in a standalone technical report suitable for use in subsequent task-work.

Civil Engineering and Land Surveying Services: Whitson Engineers will provide previously developed project maps to the team for the environmental documents. Maps include:

- ♦ Rectified Digital Ortho-Imagery for Project Area (2007)
- ♦ Topographic map for Project Area (various dates)
- ♦ Current County Parcel Shape File (2012)
- ♦ Parcel Boundary Lines

Whitson will prepare exhibit drawings showing various project implementation alternatives for the projects under consideration. Exhibits will show proposed flood wall / barrier locations, construction impact areas, and other pertinent information as requested, as developed under their other contracts.

Balance Hydrologics (Balance) will work closely with the DD&A team to assemble pertinent technical materials related to the topics of flood control, stormwater management, water quality, groundwater, and lagoonal hydraulics. This work will include a site visit to assess any change in conditions since previous work in the area was completed. The compiled information will be used to prepare a technical memorandum summarizing Lagoon behavior with respect to the factors that may be impacted through project implementation. Particular emphasis will be placed on identifying the impacts that project implementation are expected to have on barrier beach breaching frequency and timing with the concurrent implications for Lagoon maximum and minimum water elevations, depth-duration relationships, and water quality.

- ♦ The work will begin with a compilation of historic lagoon parameters based on past gauging activities (including, but not limited to, stage recorder data from the Lagoon, discharge records from the United States Geologic Survey (USGS) Carmel River gauge, and records of past beach breaching activities). Analyses of the data will include a range of summary statistics agreed to by the project team such as mean and peak monthly and seasonal lagoon storage, mean and peak inflow and outflow on a monthly and seasonal basis, and frequency and rate of lagoon filling and draining events.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK

*for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects*

- ♦ As the project work continues, the historical data will be used to estimate changes in parameters as a result of lagoon and beach management for the various alternatives being assessed. Estimates of the same summary statistics will be compiled such that potential changes to key lagoonal parameters can be generalized and contrasted with past Lagoon behavior.
- ♦ The work including methodology, data sources, and discussion of projected lagoon conditions will be compiled in a standalone technical report suitable for use in subsequent task work.

TASK 3: CARMEL LAGOON PROJECTS CONCEPTUAL PROPOSED ACTION

The work proposed in this task is identified within the RFP in section 3.1.1 and is a key task needed prior to preparation of the biological studies.

Task 3.1: Prepare 1st Draft Carmel Lagoon Projects Proposed Action

The DD&A Team will prepare a draft description of the Carmel Lagoon Projects (including the EPB, the Scenic Road Protection, and the Interim Sandbar Management Plan) based upon the team's existing knowledge and readily available data and sources regarding the Carmel Lagoon and proposed projects. The description will include all required information needed to initiate consultation with U.S. Fish and Wildlife Service and National Marine Fisheries Services and to prepare a Proposed Action in accordance with Endangered Species Act Consultation requirements. For the purpose of this task, the description will be prepared as specified in the "Description of Proposed Action" on pages 8 and 9 of "Guidance on Preparing an Initiation Package for Endangered Species Consultation," that requires the following key contents of the project description:

- ♦ The action agency proposing the action
- ♦ The authorities the action agency will use to undertake, approve, or fund the action
- ♦ The applicant, if any
- ♦ The action to be authorized, funded, or carried out
- ♦ The location of the action
- ♦ When the action will occur, and how long it will last
- ♦ How the action will be carried out
- ♦ The purpose of the action
- ♦ Any interrelated or interdependent actions

As part of this task, DD&A will work with the technical consultants to complete the required maps, graphics, and figures needed to adequately define the project impact areas. DD&A intends to utilize conference calls and meetings described in Task 5 to work collaboratively with the County and the technical consultants (Balance Hydrologics, Whitson Engineers and Moffatt & Nichol Engineers—please see Task 2 above) to develop the 1st Draft Proposed Action.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS.

REVISED SCOPE OF WORK *for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects*

The 1st Draft Proposed Action will be provided to the County (and others, if desired by the County) for review and comment. This scope of work assumes that up to five (5) hardcopies, in addition, to electronic (PDF) copies will be submitted to the County.

Task 3.2: Prepare 2nd Draft Carmel Lagoon Projects Proposed Action

Based upon comments received on the 1st Draft Description from the County, DD&A will revise the Draft Conceptual Proposed Action and Prepare a Final Conceptual for review by key regulatory and permitting agencies, land owners, and stakeholders in the Lagoon area. The document will be made available electronically via secure internet site, email, and on CD. In addition, this scope of work assumes that up to five (5) hard copies will be produced for distribution to the key agencies and stakeholders for review and comment.

Task 3.3: Prepare Final Carmel Lagoon Projects Proposed Action

Based upon comments received on the 2nd Draft Description from the key agencies and stakeholders, DD&A will revise the Draft Proposed Action and Prepare a Final Proposed Action for use in Endangered Species Act (ESA) compliance. Although the final document may be made available to the County and key agencies, the intent of this task is to incorporate the Proposed Action, as appropriate, into the Biological Assessment.

TASK 4: FEDERAL BIOLOGICAL STUDIES

The work proposed in this task is identified within the RFP in section 3.1.1 through 3.1.4 and is a key task identified as a critical path item toward achieving regulatory compliance. Note that the Biological Resources Report is proposed for use in State environmental documentation and regulatory permitting and has been incorporated into Task 6, Phase II.

The federal biological documents will include identification and description of the biological resources in the project area specific to federal listed species and an assessment of the impacts of the project and alternatives on those resources. These reports will provide recommendations on the significance of the potential impacts and mitigation measures. The technical reports will provide sufficient information for the NEPA analysis to satisfy the legal requirements of the relevant federal statutes and regulations, and the issuance of the appropriate permits by regulatory agencies with jurisdiction over natural resources affected by the project. Based on information contained in the County's RFP, DD&A assumes the preparation of the following federal biological documents:

- ♦ **Biological Assessment:** The Biological Assessment (BA) will analyze the effects of the proposed project on federally listed species and critical habitat. This document will be used for the federal environmental review process and is the basis for the federal regulatory agencies to make an effective determination on a proposed project.
- ♦ **Wetland Delineation Report:** A wetland delineation report will be prepared in sufficient format and content for submittal to the ACOE and Coastal Commission. Because the project is within the coastal zone, the delineation will be performed to both the state and federal guidelines.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK

*for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects*

DD&A will prepare these federal biological reports based on a combination of existing biological documentation and site surveys. This effort will be conducted as follows (Tasks 4.1 and 4.2 are necessary for completion of the above-listed reports, the work tasks and contents of which are described in Tasks 4.3 through 4.6):

Task 4.1 Review and Compile Biological Reference Material

Prior to site surveys, DD&A will review available reference materials, including the Department's California Natural Diversity Database (CNDDDB) occurrence reports, the USFWS list of Federally Listed Threatened and Endangered Species that May Occur in Monterey County, aerial photographs, and other relevant biological documentation that has been prepared in the project area for other projects or as research. DD&A will use this information to better focus surveys. The DD&A Team will also review all existing technical reports relevant to the proposed project to ensure that the information is sufficient for agency permitting requirements. Based upon DD&A's preliminary review of existing material, much of the required data can be derived from existing reports and data sets, although some additional data collection and consolidation may be necessary to ensure that sufficient information is provided to satisfy the applicable permitting requirements.

Task 4.2: Conduct Field Review and Data Collection

DD&A Team biologists will survey the project area to assess the environmental conditions of the site and its surroundings. The field review will provide an evaluation of general habitat features and environmental constraints at the project site and within the local vicinity to provide a basis for recommendations to minimize or avoid impacts. DD&A will identify any potential sensitive habitat areas, document wildlife observed during the surveys, and identify potential habitat for special-status wildlife and plant species.

Special attention will be provided to the south central coast steelhead (steelhead) and California red-legged frog (CRLF) as the proposed project is likely to affect these two federally listed species. Team biologists with expertise in the ecology and biology of these species will conduct species-specific habitat analyses for the purpose of identifying and determining the value of different habitat features which may be affected by the projects. If specific resources are identified during these assessment surveys, they will be mapped for inclusion in the impact analysis and the mitigation and monitoring protocol preparation effort.

Task 4.3: Prepare Draft Programmatic Biological Assessment (PBA)

A BA is required for any project where federally listed species may be adversely affected, resulting in formal consultation, or affected but not adversely affected, resulting in informal consultation. In addition, even if there will be no effect on any federally listed species, the presence of proposed or designated critical habitat may require that a BA be prepared. Projects in proposed or designated critical habitat must assess if the primary constituent elements (PCEs) of critical habitat are present, how much of the action area contains the PCEs, and whether the project will have an adverse impact on critical habitat within the action area. This will be determined and presented in the Programmatic Biological Assessment (PBA).

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK

*for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects*

A preliminary evaluation conducted by the DD&A team has determined that there is the potential for USFWS and NOAA Fisheries to determine this project may be likely to adversely affect federally listed species or critical habitat, thereby resulting in formal consultation.

DD&A will prepare a PBA which clearly states what the probable impact will be from implementation of the project. If the conclusion is that the project may affect federally listed species or critical habitat, the PBA will be prepared as a working draft. While the PBA is in draft form, DD&A may meet as necessary with USFWS, NOAA Fisheries, and the Department to explore methods of reducing project impacts. This includes evaluating methods of avoiding the impact, minimizing the impact or developing appropriate mitigation to off-set project impacts, in that order.

The PBA will discuss Smith's blue butterfly, snowy plover, and tidewater goby as required, but the likely determination for these species is that the project will not affect them. However, the PBA will likely determine that the project will adversely affect steelhead and CRLF. As a result, these two species will receive specific focus in an effort to quantify take of the species and develop adequate conservation and avoidance measures. The approach to determining the effects of the project on these two species are as follows:

South Central Coast Steelhead: South central coast steelhead (steelhead) are known to use the aquatic areas within the Carmel River Lagoon. The following analysis is proposed to be performed by Don W. Alley (DWA) of D.W. Alley and Associates with support from the DD&A Team:

- ♦ Existing information will be summarized regarding lagoon/estuary use by steelhead by season. Sources of juvenile steelhead data will be the Monterey Peninsula Water Management District (MPWMD) and the 1997 DWA report. A record of fluctuation in the lagoon/estuary water surface elevation from a variety of water years will be summarized from data provided by the DD&A team hydrologists. Included with this record will be educated guesses by the hydrologists of the frequency of mechanical breaching necessary for flood control and the frequency of natural breaches.
- ♦ The predicted scenario of breaching frequency under the Interim Sandbar Management Plan to be provided by the hydrologists and any change in degree of draining with each breach will be compared to past years prior to implementation of the Interim Breaching Plan. With input from Balance Hydrologics, DWA will summarize impact minimization measures enumerated in the NOAA Fisheries Biological Opinion for the Interim Sandbar Management Plan to minimize the frequency of mechanical sandbar breach, and minimize lagoon draining and the loss of steelhead habitat associated with each breach.
- ♦ In Phase I, DWA will assess the potential impact for take of steelhead expected from the EPB project and the Scenic Road Protection and Preservation Project, based on their conceptual designs and initial feasibility work done by the design team. In Phase II, DWA will prepare biological & technical reports (identification of fishery resources, complete project descriptions and biological assessments (combining existing conditions, complete project description, potential impacts and mitigations). DWA will compare the reduced frequency of mechanical

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

breaches and additional lagoon depth expected prior to breaches with the implementation of the EPB project at 3 heights to the existing conditions, then analyze the effect of reduced breaching frequency on steelhead habitat and fish stranding. DD&A will provide water surface (gage height) to lagoon surface area and depth contour relationship (changes in bathymetry) for the 3 Protective Barrier heights. DWA will compare impacts to steelhead by the degree of draining of the lagoon during breaching under existing conditions with the degree of draining expected with more northerly breaches allowed with completion of the Scenic Drive Project, based on design team predictions. DWA will also assess the short-term construction impacts of building the EPB and Scenic Drive projects and develop mitigation measures.

- ♦ DWA and DD&A will consult with the County and regulatory agency personnel at 4 scheduled meetings (2 for Phase I and 2 for Phase II) to discuss the details of each proposed project and obtain their recommendations for acceptable mitigations for potential impacts to steelhead. Subsequently, DWA and DD&A will discuss the consulting team's mitigation approach for each project with agency staff and obtain consensus on final mitigation measures. The consulting team's mitigation package will be based upon our impact analysis and mitigation measures formulated by the consulting team and NOAA Fisheries staff and judged feasible by the County.
- ♦ As part of the Programmatic CEQA Review in Phase II, DWA will write the fishery component of the draft initial study for the Interim Sandbar Management Plan, Ecosystem Protective Barrier Project and the Scenic Road Protection and Preservation Project.

California red-legged Frog: CRLF are known to use the upland areas of the Carmel River Lagoon. The following analysis is proposed to be performed by Dawn Reis with support from the DD&A Team.

- ♦ An initial field visit will be conducted to explore current conditions on the ground and set-up sampling locations. This habitat assessment for CRLF will also include gathering existing data and reports for review from USFWS, MPWMD, CSUMB, Parks, the County, and others.
- ♦ Salinity profiles will be taken within the water column at several sample locations once per month from February through October (the reproductive season for CRLF within the Carmel River Watershed).
- ♦ Dawn Reis and DD&A will consult with USFWS and the Department subsequent to the initial site assessment regarding project permitting needs, and needs (if any) for protocol-level CRLF surveys.
- ♦ Potential impacts to CRLF will be assessed and evaluated based on the updated habitat assessment and the assumed presence of CRLF, unless the USFWS deems protocol-level surveys necessary. This scope does not include protocol-level survey for CRLF, but can be performed if USFWS deems them necessary.

Task 4.4: Wetland Delineation

DD&A will perform a wetland delineation for the project in accordance with the procedures described in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1987) and published guidance

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK

*for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects*

from the Coastal Commission. The delineation will determine the extent of wetlands and other types of waters of the United States (waters) located within the project area. All wetlands/waters detected will be mapped at a scale of 1" = 200' or larger and described in a report of findings prepared in accordance with the San Francisco District office of the ACOE requirements and the Coastal Commission.

Task 4.5: Prepare Administrative Draft Programmatic Biological Assessment

It is anticipated that the drafting of these baseline documents will be the result of an iterative process between the DD&A Team, the County, and relevant regulatory and responsible agencies (relevant agencies). DD&A will submit the drafts to the County for an initial review and respond to comments. DD&A will respond to comments and prepare administrative drafts of the biological documents for informal submittal to relevant agencies for initial feedback and guidance. DD&A will attend one (1) coordinated meeting with the County and relevant agencies to discuss avoidance and mitigation issues, additional data needs, and impact analysis results contained in the Administrative Draft Biological Documents.

Task 4.6: Prepare Final Programmatic Biological Assessment

DD&A will finalize the biological documents. DD&A will submit the administrative drafts to the County for one (1) round of review and respond to comments. The County, or DD&A as their representative, will formally submit the Final Administrative Draft Biological documents to the relevant agencies. DD&A will attend two (2) additional meeting if necessary to respond to agency requests for additional materials and/or information. DD&A will prepare Final Biological Documents based on these meetings.

DD&A will respond to public comments received on the Biological Resources Report received during the 30-day review period. DD&A, in consultation with the County and the federal lead agency, will prepare formal responses to these comments. The comment letters and responses, as well as any necessary changes to the text, will be incorporated into the Final Biological Resources Report.

TASK 5: MEETINGS AND PROJECT MANAGEMENT FOR CONCEPTUAL PROPOSED ACTION AND BIOLOGICAL ASSESSMENT

Not including the two kick-off meetings and project management to initiate the project, identified in Task 1, DD&A proposes the following conference calls and meetings in Phase 1 of this scope of work (i.e., for conceptual Proposed Action and Programmatic Biological Assessment preparation. The DD&A Team has included attendance at the following meetings for the team:

- ♦ DD&A has included assumes seven (7) meetings each at the County offices by the Biology lead, five (5) total one-hour phone calls by up to two DD&A staff for each
- ♦ Attendance by key staff (typically, the project manager) from each of the technical subconsultant team members (Whitson, Balance, Moffatt & Nichol, D. Reis, D. Alley) at up to two (2) meetings each and up to four (4) conference calls.

The attendance at additional meetings by DD&A would be billed on a time-and-materials basis. If the County desires that DD&A arrange for meetings, prepare presentations, agendas, meeting notices, and

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK

*for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects*

meeting summaries or minutes, those services will be outside the budget provided and DD&A will provide budget estimates for those additional out-of-scope services, separately. DD&A will provide project management services, including subconsultant administration and management, status progress reporting and tracking, schedule and budget monitoring and reporting, and client/agency coordination up to the total estimated budget provided.

These additional meetings described above shall not be conducted by DD&A until the additional work is presented to the County and with the County approval, amended into the Professional Services Agreement (PSA). Once the amendment to the PSA is fully executed, DD&A will be authorized to proceed with the described work.

PHASE 2: TASK 6: PROGRAMMATIC CEQA AND NEPA DOCUMENTS

The work proposed in this task is identified within the RFP in section 3.2 and is a key task needed as part of resource agency review and environmental requirements, generally.

The Monterey County Resource Management Agency (RMA) would be the CEQA lead agency and the U.S. Army Corps of Engineers (ACOE) would be the NEPA lead agency because they must comply with NEPA to issue a Clean Water Action Section 404 individual permit(s) for the Carmel River Lagoon Projects. The DD&A Team proposes to provide programmatic CEQA and NEPA services in a phased approach to allow the County to provide substantial input on the choice, content, and review process of the environmental document. DD&A proposes to prepare a combined CEQA/NEPA document, specifically, an administrative draft Programmatic Initial Study/Environmental Assessment (IS/EA)³.

Task 6.1: CEQA and NEPA Project and Alternative Descriptions

DD&A will use information prepared in Phase I during preparation of the Conceptual Proposed Action for the Carmel Lagoon Projects and will assist the County with development of supplemental information required to prepare a CEQA and NEPA document. As part of this task, DD&A will work with the technical consultants to complete the required maps, graphics, and figures needed to adequately define the project impact areas. DD&A intends to utilize conference calls and meetings described in Task 7 to work collaboratively with the County and the technical consultants (Balance Hydrologics, Whitson Engineers and Moffatt & Nichol Engineers—please see Task 2 above) to develop the CEQA and NEPA Draft Project and Alternatives Description.

³ This scope assumes that adoption of a Mitigated Negative Declaration (MND) would be the appropriate for CEQA compliance and that a Finding of No Significant Impact (FONSI) would be appropriate for NEPA compliance. If this is not the case, an alternative scope of work and budget would be necessary due to the content and procedural differences from the scope of work herein.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

Task 6.2: Preliminary Programmatic Initial Study Checklist

This task will include a Preliminary Initial Study Checklist to evaluate the potential environmental impacts of the proposed project described in Task 6.1, above. This evaluation will be in a brief report format with an attached environmental checklist identifying potential impacts. The Preliminary Initial Study Checklist will contain more detailed information, including:

- ♦ A programmatic Environmental Setting section using existing data, studies, and information available at the time of commencement of this task;
- ♦ A list of the potential project issues/impacts with a preliminary determination of the level of significance and the need for mitigation;
- ♦ A recommendation of the level of environmental document proposed for CEQA/NEPA compliance;
- ♦ A determination about whether additional studies are required (e.g., additional sand balance information related to the Scenic Road project in response to Coastal Commission regulatory requirements, air quality diesel exhaust risk assessment, geotechnical and geological analysis, water quality data, or Phase I assessment).

This scope does not include additional technical studies than otherwise identified herein. If any additional technical studies⁴ are required outside this scope of services, DD&A will be able to provide those studies as an option (see task 8) and will submit detailed scope and cost, if desired. Additional technical studies described above shall not be conducted by DD&A until the additional work is presented to the County and with the County approval, amended into the Professional Services Agreement (PSA). Once the amendment to the PSA is fully executed, DD&A will be authorized to proceed with the described work.

Task 6.3: Administrative Draft Programmatic IS/EA

The IS/EA will be prepared concisely and to a level of detail necessary to assist the County in achieving the following ultimate actions:

- ♦ Issuance of a Finding of No Significant Impact by the ACOE demonstrating compliance with NEPA
- ♦ Adoption of a Mitigated Negative Declaration by Monterey County (if it is found that all potential impacts can be reduced to a less-than-significant level by implementation of mitigation measures or project design changes)

DD&A will prepare the IS/EA, based on a field review, consultation with RMA and key agency staff, stakeholders, and the project technical team (including engineer), existing information in local sources

⁴ The following are some of the potential studies that may be required, but are currently not included: geotechnical and geologic reports, diesel exhaust risk assessment, Phase I environmental site assessment, Section 106 studies, and sediment sand balance analysis.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

and maps, background information in previously prepared environmental documentation, project-specific technical and design studies/ recommendations, and our extensive library of resources and knowledge of the area. The tasks described below are those anticipated necessary to complete the CEQA and NEPA process based upon the methodology and assumptions above.

Per Section 15063 of CEQA Guidelines and NEPA Regulations, the IS/EA will include the following:

- ♦ Table of contents;
- ♦ A summary/overview of the proposed project;
- ♦ A description of the proposed project to be constructed, including its background, location, purpose of and need for, schedule and funding;
- ♦ An identification of the environmental setting in the vicinity of the project site, as it exists before commencement of the project from both a local and regional perspective, for relevant issues identified in the completed environmental checklist;
- ♦ A completed environmental impact/consequences section, including a brief narrative supporting the conclusions identified in the checklist (based upon Task 6.1);
- ♦ An identification of environmental effects of the project for relevant issues identified in the completed environmental checklist. The explanations may reference other information sources through citation to the documents where the information may be found;
- ♦ Recommended feasible mitigation measures or project design changes, as necessary;
- ♦ A discussion of alternatives being considered;
- ♦ An identification of the environmental clearances and permits required;
- ♦ Discussion of consistency with local plans, policies, and the Coastal Act;
- ♦ List of report preparers and bibliography, including references and persons consulted;
- ♦ Appropriate tables, figures, and appendices;
- ♦ FONSI determination/signature page for the federal lead agency; and
- ♦ Mitigated Negative Declaration determination /signature page for the RMA.

Key environmental topics are discussed individually below; these topics will be specifically addressed in the IS/EA, in addition to all other elements required by CEQA Guidelines Appendix G and ACOE NEPA Regulations. For each environmental topic, the IS/EA will include a discussion of existing conditions and will identify potential environmental impacts of the project using significance criteria (i.e., thresholds of significance) to determine the level of impact for each identified issue. The project impact section will present potentially significant impacts, and identify mitigation that avoids, eliminates, or reduces impacts to a less-than-significant level. This scope assumes that mitigation measures or project design changes will be available and feasible to successfully reduce impacts to a less-than-significant level.

Aesthetics: The Carmel River State Beach is a popular, and extremely high quality recreational and scenic site located in the Coastal Zone. Multi-million dollar homes and a high end resort are adjacent to the Lagoon and pristine and treasured views of Point Lobos, and natural habitat are afforded the public throughout the site and vicinity. Aesthetics impacts of construction of the physical solutions for Lagoon Management are thus a critical issue for the IS/EA. The IS/EA will

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

describe the aesthetic conditions of the site before and after the key structural improvements of the project are installed, including photographs from key vantage points and photosimulations from up to five (5) key vantage points of the site, if detailed plans are available for those improvements. Significant impacts will be identified and mitigation provided to reduce the aesthetic impacts.

Air Quality: *Air quality during construction is a key issue of the Carmel Lagoon Projects due to the proximity of the sites to sensitive residential receptors. The IS/EA will describe the air quality of the area and provide an assessment of the potential air quality impacts of the project. This analysis will include the following:*

- ◆ Description of the existing meteorological characteristics and air quality in the project area, and identification of sensitive receptors affected by the project (e.g., residences, etc.).
- ◆ Discussion of the relevant federal, state, and local regulatory provisions regarding air pollutant emissions.
- ◆ Address short-term air quality impacts during construction, resulting from dust and exhaust emissions from construction activities. Address any long-term impacts from project implementation on air quality, such as on-site power generators using diesel.
- ◆ Identify mitigation for significant impacts.

Biological Resources: *Biological resource impacts (in addition to flooding) are critical to the project and integrated into the project goals and purpose. The lagoon and surrounding natural areas are habitat for multiple threatened and protected species as described in more detail in Task 4. This task will summarize the results of the Biological Resources Report, including documenting potential impacts on biological resources (plant and wildlife species and habitat). The previously described biological reports will be appended to the various drafts of the IS/EA. The report and section will address the following:*

- ◆ Describe existing biological resources on and surrounding the project site.
- ◆ Assess benefits and impacts to the important, sensitive habitat and resource areas, due to construction disturbance, proposed operational maintenance activities.
- ◆ Identify known or potential special-status species present.
- ◆ Analyze direct, indirect, and cumulative impacts of project.
- ◆ Identify mitigation for significant biological impacts, including the potential need for a Lagoon Restoration and Management Plan, if not already completed at the time the IS/EA is prepared.

DD&A biologists will survey the project area to assess the environmental conditions of the site and its surroundings. The field review will provide an evaluation of general habitat features and environmental constraints at the project site and within the local vicinity. DD&A will identify any potential sensitive habitat areas, document any wildlife observed during the surveys, and identify potential habitat for special-status wildlife species. DD&A will conduct focused botanical surveys in accordance with the Department, USFWS, and California Native Plant Society survey protocols

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

during the spring and summer of 2013 to identify any special-status plant species within the project site. DD&A will map locations of special-status plant species and sensitive habitat using a Trimble ProXH GPS. DD&A will consider the type, acreage, and quality of the impacted habitats to determine the appropriate mitigation habitat type and acreage (as dictated by impact to mitigation ratios) that may be required to compensate for project impacts to sensitive habitats and special-status plants and wildlife. DD&A will develop impact-to-mitigation ratios by habitat to ensure no net loss of habitat function and value. The ratios will reflect the feasibility of restoring habitat, the quality of the impacted habitat, the amount of time that shall be required for the mitigation habitat to develop to a fully functional condition, the uniqueness of the impacted habitat, and the typical regulatory agency requirement standards.

Please note that this scope and budget does not include protocol-level special-status wildlife species surveys.

***Climate Change and Greenhouse Gas:** Climate change is anticipated to have an effect on sea level, frequency and intensity of storm events, and on biological resources due to changes in precipitation and temperatures. The Carmel River Lagoon is home to sensitive species that will be subject to weather extremes, in particular, the site is exposed to a dynamic interface between the marine and freshwater river system. For these reasons, the climate change adaptation is a key project issue. The IS/EA will address greenhouse gas (GHG) emissions and climate change issues that may be associated with the project. Mitigation measures in the IS/EA and management solutions generated during regulatory coordination must consider all indirect effects of climate change on the lagoon's resources, nearby infrastructure and properties, and site users. Emission factors for construction emissions and emissions from energy usage would be calculated based on the predicted electricity demand and fossil fuel use. Standard methodologies of the state and various air districts set forth by the MBUAPCD will be used to evaluate impacts from GHG emissions, since these are based on substantial evidence. The project's GHG emissions will be compared to existing thresholds to determine whether the project would result in a cumulative contribution to GHG emissions. Although not anticipated due to the nature and scope of the project, if the project would result in a potentially significant (cumulatively considerable) impact, the EIR will contain mitigation to reduce the impact.*

***Cultural Resources:** Historic agricultural uses and structures are known to be located in the vicinity of the Carmel Lagoon. In addition to the historic agricultural uses and associated structures, the coastal terrace adjacent to the south side of the beach has such important Native American archaeological significance that it was designated as the Ohlone Coastal Cultural Preserve by the State Park and Recreation Commission. Surveys of the coastal terrace were conducted by State Parks archeologists in 1986. This Cultural Preserve is located adjacent to the area where equipment creates the high-level outlet channel. In addition bedrock mortars exist in the rocks that underlie the beach. The IS/EA will address potential cultural resource impacts of the project, based on existing information available for the site and a preliminary cultural resources reconnaissance by Archaeological Consulting. In addition, a Section 106 compliance*

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

process is included as an optional task (8), should the federal lead agency request that the County provide those services during the NEPA process. Archaeological Consulting can provide the Section 106 compliance tasks for \$6,065, including project management and administration by DD&A, assuming accurate and all-encompassing area of potential effect (APE) mapping is provided by others in an acceptable format and iterative changes to the APE do not occur after the Section 106 work commences. During the preliminary archaeological work, the project site will be reviewed to determine potential for archaeological resources based upon available information. Measures will be identified to protect any possible archaeological resources that may be uncovered during construction

***Geology and Soils:** The Carmel Lagoon Projects may result in, or be subject to, geotechnical impacts associated with placing structures on loose soil that is subject to inundation and liquefaction, and the project would involve earthwork (e.g., grading, trenching, and excavation), inducing geotechnical hazards such as erosion. Design measures may be required to assure mitigation of soil or geotechnical hazards. The geologic and geotechnical hazards on the site will be addressed in the IS/EA, based on available geotechnical reports previously prepared for similar projects in the area, as well as existing information provided in existing documentation. This section will address the following:*

- ♦ Describe potential geologic and geotechnical hazards on the site.
- ♦ Evaluate potential geotechnical issues including seismic, soil conditions and hazards (such as expansive or weak soils), proposed grading, and erosion relying upon the previous provided expertise of the existing project engineer team (Pacific Geotechnical Engineering Moffatt & Nichol) supplemented by additional CEQA-specific required qualitative impacts analysis by Moffatt & Nichol related to beach berm, scour potential of the ocean on the scenic road bluff.
- ♦ Incorporate recommendations/mitigation of significant impacts.

***Hazardous Materials:** Hazardous materials would be introduced to the site during construction, and possibly, during operation. The IS/EA will describe the use, storage, and transport of hazardous materials during construction, and if applicable, operation of the various structural improvements. Potential impacts would be evaluated, including new and increased use of hazardous materials. Standard best management practices required by regulatory requirements of the local fire department, Monterey County, Department of Toxic Substance Control, and U.S. EPA will be identified. These requirements typically avoid significant impacts related to accidental release of chemicals used onsite. Note: Flood hazards will be assessed in the Hydrology and Water Quality section.*

***Hydrology/Water Quality:** Hydrology and water quality (in addition to biological resources) issues are the critical to the project and integrated into the project goals and purpose. The key issues related to the environmental review include:*

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

- ♦ Lagoon levels and flooding conditions (currently and with the project),
- ♦ Storm water and drainage design related to surface flows from adjacent areas towards the future EPB and the methodology to divert that flow around the EPB, and
- ♦ Water quality in any discharges to the lagoon, beach and ocean due to the designation by the Department of the Carmel Bay Area of Special Biological Significance and the associated General Exception rules requiring monitoring of ocean water quality and limiting pollutant discharges and concentrations in storm water entering the Carmel Area of Special Biological Significance (ASBS).

The IS/EA will describe the proposed facilities, and evaluate any alterations of the existing drainage patterns or in groundwater or surface water hydrology, and the changes in storm water runoff resulting from the project based on information in the technical documents previously prepared for the Carmel Lagoon as supplemented by a qualitative analysis of CEQA-related impacts to be prepared by Balance Hydrologics and Moffatt & Nichol. Mitigation will be identified as necessary for any significant impacts, including recommending water quality mitigation for eliminating pollutants to the ASBS. This section will also address potential water quality impacts during and after construction of the proposed project. Appropriate Best Management Practices and other mitigation will be identified for potential water quality impacts, as required by the Regional Water Quality Control Board.

Land Use/Consistency with Plans: *The project site is located within CA State Parks, the Coastal Zone, and County Jurisdictional areas. The Odello East project is located within Caltrans right of way. The IS/EA will describe existing onsite and surrounding uses, and identify any potential conflicts between the proposed project and existing uses. This section will evaluate the consistency of the proposed project with the policies of applicable land use plans, policies, or regulations of agencies with jurisdiction over the project, including, but not limited to, the Monterey County General Plan and the California Coastal Act applicable policies. This section will also identify mitigation for significant impacts.*

Recreation: *Recreational access issues of the project are critical during construction and after the EPB and Scenic Road are constructed, given that the project sites would be located within or adjacent to the boundaries of Carmel River State Beach, , a coastal park with passive recreational use that currently provides access along its entire boundary (very few physical barriers to access). Visitors enjoy recreational activities that include sunbathing, beachcombing, bird-watching, swimming, SCUBA diving and picnicking. Current facilities within the park consist of one public parking lot, a series of trails and two public restrooms. The IS/EA will address the impacts to recreational facilities and access during construction and after completion of structural improvements. This section will also identify mitigation for significant impacts.*

Noise: *Noise during construction and operation is a key issue of the Carmel Lagoon Projects due to the proximity of the sites to sensitive residential receptors that currently experience very low noise levels. Noise sources associated with the project would include construction equipment and*

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

operational pumping. Such sources could contribute to increased noise levels beyond the project's boundaries with adequate buffering (i.e., generic noise control. The IS/EA will contain the following information regarding noise:

- ♦ Existing Baseline Conditions will be assumed using published information on existing ambient noise levels in the area.
- ♦ Noise levels from project operations will be quantified and projected out to sensitive receptor locations.
- ♦ Noise levels during construction will be estimated for each major phase of construction period. Generic data for public infrastructure construction sites will be used in this analysis.
- ♦ Significance thresholds will be based upon local ordinances, regulations, standards, plans, and policies.
- ♦ Relative increase in, and absolute, noise levels will be assessed to determine whether or not the project would cause a substantial increase in noise at sensitive receptors in the vicinity of the project or result in noise levels exceeding limits established in applicable ordinances, regulations, and standards. Significant noise impacts would be identified.
- ♦ If significant noise impacts are identified, mitigation measures will be recommended, including, but not be limited to, generic noise control treatments around major noise sources, the establishment of noise performance standards for the proposed project, or other physical or administrative controls.

Public Services/ Utilities: *Public emergency services to the site are provided by California State Park Rangers/Peace Officers, the Monterey County Sheriff's Office, the California Department of Forestry and Fire Protection – Cypress Fire District, and the Carmel Highlands Fire District. The nearest school is Carmel River Elementary School (located immediately north of the lagoon). The IS/EA will address these issues, as follows:*

- ♦ Address the anticipated project demands on public services, including police, fire protection and any other affected public services.
- ♦ Address the impacts on schools.
- ♦ Address the anticipated project demands on utilities and service systems, including water supply/service, wastewater treatment, and solid waste disposal.
- ♦ Evaluate the impacts of, and need for, new infrastructure due to the project based upon information provided by the County and DD&A's consultation with local service/utility providers.
- ♦ Identify any significant impacts and appropriate mitigation for any impacts to services and utilities.

Socioeconomic: The socioeconomic section of the IS/EA will be pursuant to NEPA and ACOE requirements (i.e., this issue is only relevant to CEQA if a socioeconomic issue, or project result, would cause in an indirect physical environmental change resulting in a significant impact). DD&A will collect the necessary socioeconomic information to determine the baseline conditions for the project's affected environment, to be defined as coastal Monterey County.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

Data on population and demographics, current economic structure (e.g. identification of the principal industrial sectors, employment and annual output), and projections of the future population growth and economic development. The Carmel Lagoon projects will result in construction-related and operational costs impacting certain community members. This section will present cost information available from existing sources.

Environmental Justice: Socioeconomic issues relevant to the evaluation of environmental justice impacts include employment, population, housing, ethnicity of population, and poverty status. DD&A will prepare the environmental justice section of the IS/EA pursuant to NEPA and ACOE requirements. The section will describe existing economic and demographic conditions at the appropriate geographic levels. Environmental justice issues encompass a broad range of impacts, including impacts on the natural or physical environment and interrelated social, cultural and economic effects. This environmental justice analysis will focus on ensuring that minority and low-income populations get an equal share of the project benefits without carrying the environmental burden of service development (construction impacts). This analysis will be supported by sufficient information for the public to understand the rationale for the conclusion and will be presented as concisely as possible, using language that minimizes use of acronyms or jargon.

Cumulative Impacts: In accordance with NEPA and CEQA requirements, the IS/EA will analyze potentially significant cumulative impacts anticipated from the project combined with projects that are proposed, planned, and/or underway within the subject geographic area and other local jurisdictions. The analysis will be based on a list of proposed or anticipated projects in the area, consultation with the RMA and the federal lead agency, and the County General Plan.

Project Alternatives: In accordance with NEPA, the IS/EA needs to discuss alternatives to the proposed action, including the no-action alternative, considered that could feasibly meet the project objectives and potentially avoid or lessen any significant environmental impacts associated with the project. DD&A will rely upon the existing engineering and hydrologic work products conducted by the County and their team of engineers and hydrologists, and the key agencies to determine the feasible alternatives to be addressed. The IS/EA will discuss the preferred alternative and identify any other alternatives considered (up to three (3) in addition to the No Action alternative). Because this scope of work assumes that the Carmel Lagoon Projects will be described and analyzed at a programmatic-level of detail, this alternatives analysis would be presented as a range of overarching management policies, or major changes to one or more of the projects. Also, the alternatives analysis may be utilized to look at various combinations of projects implemented in the future. The alternatives will be discussed qualitatively in terms of their impacts and their effectiveness in addressing identified significant adverse project impacts. If additional quantitative and/or modeling information is needed regarding feasibility or environmental impacts of the Carmel Lagoon Projects from Whitson Engineers, Moffatt & Nichol, and/or Balance Hydrologics, DD&A can engage with those entities

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK for Programmatic Biological Assessment and Initial Study for the Carmel Lagoon Projects

with a scope of work adjustment to provide that information. The alternatives analysis will include the following:

- ♦ Qualitatively analyze a range of feasible alternatives.
- ♦ Summarize other alternatives identified which are not feasible, with rationale for rejection (i.e., size, access, etc.).
- ♦ Analyze the project alternatives in accordance with NEPA and CEQA requirements.
- ♦ Identify an environmentally superior alternative, based on the number and degree of associated environmental impacts.

Other Sections: The IS/EA will also address other issues and include other sections, as listed below:

- ♦ Growth Inducing Impacts
- ♦ Cumulative and Irreversible and Irretrievable Commitment of Resources
- ♦ Effects Found to be Less Than Significant
- ♦ Report Preparation and References

DD&A will submit up to five (5) hard copies of the Administrative Draft Programmatic IS/EA to the Monterey County RMA.

Task 6.4: Prepare 2nd Administrative Draft Programmatic IS/EA

After review of the 1st Administrative Draft Programmatic IS/EA by the County, DD&A will respond, as necessary, revise the document based on the comments received. The document will then be provided to ACOE (and other key resource agencies, if agree upon by the County and ACOE) for their review and comment⁵.

Task 6.5: Prepare Screen-Check and Public Review Draft Programmatic IS/EA

DD&A assumes that the County and ACOE will provide one set of written comments each on the Administrative Draft Programmatic IS/EA, either in letter form or on a single copy of the document⁶. DD&A will then submit a Screen Check Draft (2 copies) to the County and the federal lead agency. After review of the Screen Check Draft, DD&A will submit 15 copies of the required components of the Draft Programmatic IS/EA to the State Clearinghouse for distribution for a 30-day public review period (per CEQA requirements) and provide ACOE and NOAA Fisheries one original, unbound copy to comply with

⁵ This scope and budget assumes that the ACOE will be the federal lead agency and that the ACOE will require review of the Administrative Draft IS/EA for compliance with NEPA Regulations. Additional hard copies and CD copies that may be required by the ACOE or other federal or state agencies is unknown at this time and is not included in this scope or budget.

⁶ This scope and budget includes incorporating ACOE and NOAA Fisheries comments, assuming that comments do not require substantial revisions or additional technical analysis. Substantial revisions are anticipated to be avoided by early coordination with the federal lead and other key agencies, which is included in Phase 1; however, DD&A cannot anticipate agency staffing changes, project description changes, or other changes in circumstances outside our control

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK

*for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects*

the federal lead agency's NEPA requirements for public distribution. In addition, DD&A will provide 30 copies (plus one unbound camera ready copy) to RMA for local distribution. DD&A will also provide the 2 copies of the document electronically in Microsoft Word and Adobe Acrobat (pdf) format on CD. This scope assumes that all public mailings and preparation and posting of notification documentation, notices, etc. will be conducted and paid for by the RMA. Additional copies beyond those identified above are not included in this scope of work.

Task 6.6: Respond to Comments and Prepare Programmatic Draft Final Programmatic IS/EA

DD&A will respond to public comments received on the Draft Programmatic IS/EA received during the 30-day review period. DD&A, in consultation with the County and the federal lead agency, will prepare formal responses to these comments. The comment letters and responses, as well as any necessary changes to the text of the Draft Programmatic IS/EA, will be incorporated into the Final IS/EA. DD&A will provide five (5) copies of the Draft Final Programmatic IS/EA and FONSI/MND to the County and five (5) copies to the federal lead agency.

Task 6.7: Prepare Final Programmatic IS/EA

This task assumes DD&A will respond and incorporate one single round of comments from the County and one single round of comments from ACOE on the responses and on the Draft Final Programmatic IS/EA prior to preparation of the Final Programmatic IS/EA. The tasks required for approval/adoption, and preparation, posting, and distribution of the notices (i.e., to adopt a MND and approve a FONSI), including preparation of a Mitigation Monitoring and Reporting Program/Plan, are assumed to be the responsibility of the lead agencies as described in detail below. DD&A will provide ten (10) copies of the Draft Final Programmatic IS/EA and FONSI/MND to the County and five (5) copies to the federal lead agency.

TASK 7: CEQA/NEPA MEETINGS AND PROJECT MANAGEMENT

Not including the two kick-off meetings and project management to initiate the project, identified in Task 1, DD&A proposes the following conference calls and meetings in Phase 2 of this scope of work. The DD&A Team has included attendance at the following meetings for the team:

- ♦ DD&A has included assumes eight (8) meetings at the County offices by the CEQA/NEPA lead, eight (8) total one-hour phone calls by up to two DD&A staff for each
- ♦ Attendance by key staff (typically, the project manager) from the key non-biology technical subconsultant team members (Whitson, Balance, Moffatt & Nichol) at up to one (1) meeting each and up to four (4) conference calls.

The attendance at additional meetings by DD&A would be billed on a time-and-materials basis. If the County desires that DD&A arrange for meetings, prepare presentations, agendas, meeting notices, and meeting summaries or minutes, those services will be outside the budget provided and DD&A will provide budget estimates for those additional out-of-scope services, separately. Additional meetings described above shall not be conducted by DD&A until the additional work is presented to the County

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK

*for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects*

and with the County approval, amended into the Professional Services Agreement (PSA). Once the amendment to the PSA is fully executed, DD&A will be authorized to proceed with the described work.

DD&A will provide project management services, including subconsultant administration and management, status progress reporting and tracking, schedule and budget monitoring and reporting, and client/agency coordination up to the total estimated budget provided.

TASK 8: OPTIONAL TASKS

Task 8.1: NHPA Section 106 & Indian Trust Assets Compliance

Should the federal lead agency, ACOE, request that the County provide those services during the NEPA process, Archaeological Consulting can provide the Section 106 compliance tasks for \$6,065, including project management and administration by DD&A, assuming accurate and all-encompassing area of potential effect (APE) mapping is provided by others in an acceptable format and iterative changes to the APE do not occur after the Section 106 work commences. Additional technical studies described above shall not be conducted by DD&A until the additional work is presented to the County and with the County approval, amended into the Professional Services Agreement (PSA). Once the amendment to the PSA is fully executed, DD&A will be authorized to proceed with the described work.

Task 8.2: Other Optional/Out of Scope Tasks

The following optional tasks were not identified in the RFP; however, may be needed for completion of the CEQA and/or NEPA processes. A cost estimate for these services has not been prepared at this time.

Optional Services described below shall not be provided unless authorized in writing by the County's Project Planner and the Project Applicant. In addition, the services described below shall not be conducted by DD&A until a scope of services and budget for the additional work is presented to the County and with the County approval, amended into the Professional Services Agreement (PSA). Once the amendment to the PSA is fully executed, DD&A will be authorized to proceed with the described work.

DD&A is qualified and available to assist the county with one or more of these CEQA and NEPA tasks, should the County desire these services. The County may authorize these as part of a new phase or through a separate contract/contract amendment.

- ♦ Project-level environmental review services,
- ♦ Environmental Impact Report preparation and associated processing,
- ♦ Environmental Impact Statement, and associated federal reporting requirements not already included in the above scope of work,
- ♦ Mitigation Monitoring and Reporting Program/Plan,
- ♦ Staff Reports, Resolutions, and CEQA Findings,
- ♦ Notice Preparation and Distribution (noticing lists),
- ♦ Document Reproduction and Distribution not explicitly included in the scope,

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

REVISED SCOPE OF WORK

*for Programmatic Biological Assessment and Initial Study
for the Carmel Lagoon Projects*

- ♦ Preparation of permitting support documents, including applications, technical studies/memoranda to support the submittal of permit applications to one or more state or federal resource agencies and, if needed State Parks,
- ♦ Public Stakeholder Meeting Facilitation, Preparation, Agendas, Presentation, Meeting Notes, etc., and
- ♦ Additional technical analysis not explicitly included in this scope of work.

Contractor's Initials DP Date 4/11/13

Contractor's Initials
DP

[illegible]

Page 25 of 27

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

PAYMENT PROVISIONS

Invoices for services / work products / deliverables under the AGREEMENT shall be submitted when the work product is complete, shall identify the document or work product being delivered and shall include the following:

1. Invoice Coversheet

Denise Duffy & Associates, Inc.

Programmatic Biological Assessment (PBA) and Initial Study (IS) for projects located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan (RFP #2012-CRL-1) for Phases 1 and 2

Date: _____

Invoice No. _____

Agreement Term: April 23, 2013 – April 23, 2014

Agreement Amount: \$353,100

This Invoice:	1.		Project Initiation and Scope Confirmation (Phase 1)	\$21,658.00
	1.1	\$3,141.00	Compilation of Existing Documentation	
	1.2	\$6,852.00	Finalize Scope of Work/Project Management/Schedule	
	1.3	\$7,094.00	Early Meetings/Conference Calls with Monterey County	
	1.4	\$4,571.00	Early Coordination with Interested and Responsible Agencies	
	2.		Data Collection and Technical Input (Phase 1)	\$50,091.00
	2.1	\$4,085.00	Data Collection	
	2.2	\$46,006.00	Technical Input and Agency Consultation (Including Technical Subconsultant Reports)	
	3.		Carmel Lagoon Projects Conceptual Proposed Action (Phase 1)	\$23,279.00
	3.1	\$16,685.00	1 st Draft Carmel Lagoon Projects Proposed Action	
	3.2	\$5,346.00	2 nd Draft Carmel Lagoon Projects Proposed Action	
	3.3	\$1,248.00	Final Carmel Lagoon Projects Proposed Action	
	4.		Federal Biological Studies (Phase 1)	\$57,974.00
	4.1	\$8,794.00	Review and Compile Biological Reference Materials	
	4.2	\$16,516.00	Conduct Field Review and Data Collection	
	4.3	\$15,370.00	Prepare Draft PBA	
	4.4	\$8,669.00	Wetland Delineation	
	4.5	\$5,750.00	Prepare Administrative Draft PBA	
	4.6	\$2,875.00	Prepare Final PBA	
	5.		Meetings and Project Management for Conceptual Proposed Action and Biological Assessment (Phase 1)	\$16,313.00
	5.1	\$9,078.00	County Staff/Consultants Meetings	
	5.2	\$4,571.00	Conference Calls	
	5.3	\$2,664.00	Project Management	

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

6.		<i>Programmatic CEQA and NEPA Documents (Phase 2)</i>	<u>\$156,909.00</u>
6.1	\$16,660.00	<i>CEQA and NEPA Project and Alternatives Description</i>	
6.2	\$7,110.00	<i>Preliminary Programmatic IS Checklist</i>	
6.3	\$110,010.00	<i>1st Administrative Draft Programmatic IS/EA</i>	
6.4	\$5,631.00	<i>2nd Administrative Draft Programmatic IS/EA</i>	
6.5	\$2,472.00	<i>Screen-Check and Public Review Draft Programmatic IS/EA</i>	
6.6	\$9,712.00	<i>Respond to Comments and Prepare Programmatic Draft Final Programmatic IS/EA</i>	
6.7	\$5,314.00	<i>Prepare Final IS/EA</i>	
7.		<i>CEQA/NEPA Meetings and Project Management (Phase 2)</i>	<u>\$20,811.00</u>
7.1	\$8,833.00	<i>County Staff/Consultants Meetings</i>	
7.2	\$5,003.00	<i>Conference Calls</i>	
7.3	\$6,975.00	<i>Project Management</i>	
8.		<i>OPTIONAL TASKS</i>	<u>\$6,065.00</u>
8.1	\$6,065.00	<i>NHPA Section 106 & Indian Trust Assets Compliance</i>	
8.2	\$TBD	<i>Other Optional /Out of Scope Tasks</i>	
Grand Total:			<u>\$353,100.00</u>

Remaining Balance \$ _____

Approved as to Work/Payment: _____
Dawn Mathes, Resource & Community Development Manager

Date

All Invoices Are To Be Sent To:
Jaime Martinez, Accounting Technician
County of Monterey Resource Management Agency - Finance Division
168 W. Alisal Street, 2nd Floor, Salinas, CA 93901
Telephone: (831) 755-4829

2. Invoice Detail

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

**EXHIBIT B – INCORPORATION OF REQUEST FOR PROPOSALS #2012-CRL-1
AND PROPOSAL DOCUMENTS**

The County of Monterey Resource Management Agency invited submittals to Request for Proposals (RFP) through RFP #2012-CRL-1, Programmatic Biological Assessment (PBA) and Initial Study (IS) for Projects Located in the Carmel River Lagoon Area and Carmel River Lagoon Restoration and Management Plan. Denise Duffy & Associates, Inc. submitted a responsive and responsible proposal to perform the services listed in RFP #2012-CRL-1.

RFP #2012-CRL-1 and the proposal submitted by Denise Duffy & Associates, Inc. on file with the County of Monterey Resource Management Agency are hereby incorporated into the Agreement by this reference to provide a PBA and IS for projects located in the Carmel River Lagoon Area and a Carmel River Lagoon Restoration and Management Plan.

DD
(Contractor's Initials)

4/2/13
(Date)

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

Date (MM/DD/YR)
4/3/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Heffernan Professional Practice Insurance Brokers License No. 0564249 6 Hutton Centre Dr., Ste 500 Santa Ana, CA 92707		CONTACT NAME: Sherry Young PHONE (A/C, No, Ext): 714-361-7700 FAX (A/C, No): 714-361-7701 EMAIL ADDRESS: sherry@heffins.com																									
INSURED Denise Duffy & Associates, Inc. 947 Cass St., Ste 5 Monterey, CA 93940		INSURERS AFFORDING COVERAGE <table border="1"> <tr> <td>INSURER A:</td> <td>Massachusetts Bay Insurance Co</td> <td>NAIC #</td> <td>22306</td> </tr> <tr> <td>INSURER B:</td> <td>Hanover American Insurance Co</td> <td></td> <td>36034</td> </tr> <tr> <td>INSURER C:</td> <td>Continental Casualty Co</td> <td></td> <td>20443</td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> <td></td> </tr> </table>		INSURER A:	Massachusetts Bay Insurance Co	NAIC #	22306	INSURER B:	Hanover American Insurance Co		36034	INSURER C:	Continental Casualty Co		20443	INSURER D:				INSURER E:				INSURER F:			
INSURER A:	Massachusetts Bay Insurance Co	NAIC #	22306																								
INSURER B:	Hanover American Insurance Co		36034																								
INSURER C:	Continental Casualty Co		20443																								
INSURER D:																											
INSURER E:																											
INSURER F:																											

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY	X		OD3916991201	09/01/12	09/01/13	EACH OCCURRENCE	\$1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$500,000
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person)	\$5,000
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER						PRODUCTS - COMP/OP AGG	\$2,000,000
	POLICY <input type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/>							\$
A	AUTOMOBILE LIABILITY	X		OD3916991201	09/01/12	09/01/13	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
	ANY AUTO						BODILY INJURY (Per person)	\$
	ALL OWNED AUTOS						BODILY INJURY (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	\$
								\$
	UMBRELLA LIAB						EACH OCCURRENCE	\$
	EXCESS LIAB						AGGREGATE	\$
	DED	RETENTION	\$					\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N/A		WZ3916990601	09/01/12	09/01/13	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? (Mandatory in N.H.)							
	If yes, describe under DESCRIPTION OF OPERATIONS below							
C	PROFESSIONAL LIABILITY			EEH276198480	11/05/12	11/05/13	Per Claim Aggregate	\$1,000,000
							\$2,000,000	

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

Projects as on file with the insured including not limited to Carmel Lagoon Project. The County of Monterey, its officers, agents and employees are named as additional insured (primary) on General Liability and Automobile Liability policies per the attached endorsement.

CERTIFICATE HOLDER

County of Monterey
Resource Management Agency
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



ACORD 25 (2010/05)

©1-8-2010 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

Policy Number: OD3916991201

Insured: DENISE DUFFY & ASSOCIATES,
INC.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY SUPPLEMENTARY ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

I. Additional Insured by Contract, Agreement or Permit

Under **SECTION II – LIABILITY, C. Who Is An Insured**, Paragraph 4. is added as follows:

- a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

but only with respect to:

- (3) "Your work" for the additional insured(s) at the location designated in the contract, agreement or permit; or
- (4) Premises you own, rent, lease, control or occupy.

This insurance applies on a primary basis if that is required by the written contract, agreement or permit.

b. This provision does not apply:

- (1) Unless the written contract or written agreement has been executed or permit has been issued prior to the "bodily injury", "property damage" or

"personal and advertising injury";

- (2) To any person or organization included as an insured by an endorsement issued by us and made part of this Policy;

- (3) To any lessor of equipment:

- (a) After the equipment lease expires; or

- (b) If the "bodily injury", "property damage" or "personal and advertising injury" arises out of the sole negligence of the lessor;

- (4) To any:

- (a) Owners or other interests from whom land has been leased which takes place after the lease for that land expires; or

- (b) Managers or lessors of premises if:

- (i) The occurrence takes place after you cease to be a tenant in that premises; or

- (ii) The "bodily injury", "property damage" or "personal and advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor; or

- (5) To "bodily injury", "property damage" or "personal and

advertising injury" arising out of the rendering of or the failure to render any professional services. This includes but is not limited to any professional services as an architect or engineer arising out of any construction agreement or activities under which any insured or anyone acting on any insured's behalf provides or provided service, advice, expertise or work. Construction includes, but is not limited to, the plan, conception, design, build, construct, assembly, development, safety, erection, formation, reconstruct, rehabilitation, repair, or any improvement made to real property. Construction also includes the hiring, supervision or management of any of these activities. However, this exclusion does not apply to liability arising out of an insured's presence at a jobsite that was not caused by professional activities listed in the above paragraph.

c. Additional insured coverage provided by this provision will not be broader than coverage provided to any other insured.

d. All other insuring agreements, exclusions, and conditions of the policy apply.

II. Additional Insured by Contract, Agreement or Permit – Primary and Non-contributory

The following is added to **SECTION III – COMMON POLICY CONDITIONS:**

M. Other Insurance

1. Additional Insureds

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **SECTION II - LIABILITY, Part C – Who is An Insured**, is

primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss we cover under **SECTION II – LIABILITY, Part A. Coverages, Paragraph 1., Business Liability** our obligations are limited as follows:

a. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

- (1) For the sole negligence of the Additional Insured;
- (2) When the Additional Insured is an Additional Insured under another primary liability policy; or
- (3) When **b.(2)** below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **b.(3)** below.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

- (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
- (b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;
- (c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner; or
- (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability.

When this insurance is excess, we will have no duty under SECTION II – LIABILITY, Part A. Coverages, 1. Business Liability to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

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

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

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

c. Method Of Sharing

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

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

III. Aggregate Limit of Insurance (Per Project)

- a. For purposes of the coverage provided by this endorsement, D. Liability and Medical Expenses Limits of Insurance under Section II – Liability is amended by adding the following:

The General Aggregate Limit under D. Liability and Medical Expenses Limits of Insurance applies separately to each of "your projects" or each location listed in the Declarations.

- b. For purposes of the coverage provided by this endorsement **F. Liability And Medical Expenses Definitions** under **Section II - Liability** is amended by adding the following:

a. "Your project" means:

- i. Any premises, site or location at, on, or in which "your work" is not yet completed; and
- ii. Does not include any location listed in the Declarations.

IV. Blanket Waiver of Subrogation

Paragraph **K. Transfer Of Rights Of Recovery Against Others To Us** in **Section III - Common Policy Conditions** is amended by the addition of the following:

We will ~~waive~~ any right of recovery we may have against any person or organization when you have agreed in a written contract, permit or agreement to waive any rights of recovery against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".



COUNTY OF MONTEREY

PURCHASE ORDER

ORDER DATE 05-23-2013

DO 3000 0000004525

IMPORTANT

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

VENDOR DENISE DUFFY & ASSOCIATES 947 Cass Street Ste 5 Monterey CA 93940	SHIPTO PLANNING & BLDG/ INSPECTION 168 W. ALISAL ST., 2ND FLOOR SALINAS CA 93901	BLTOTO PLANNING & BLDG/ ALISAL 168 W. ALISAL ST 2ND FLOOR SALINAS CA 93901
VENDOR NUMBER: CV000001806		F.O.B.:
DELIVERY DATE:		

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	UNIT PRICE	SALES TAX	EXTENDED PRICE
1	0.0		92642	PURCH DESC: THIS PURCHASE ORDER IS ISSUED TO PROVIDE A PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY FOR PROJECTS LOCATED IN THE CARMEL RIVER LAGOON AREA AND A CARMEL RIVER LAGOON RESTORATION AND MANAGEMENT PLAN (MYA *844) THE TERM OF THIS AGREEMENT IS FROM 04/23/13 - 04/23/14 AND SHALL NOT EXCEED \$353,100.00 THIS PURCHASE ORDER IS VALID FROM 04/23/13 - 06/30/13 AND SHALL NOT EXCEED \$75,000.00. REMAINING BALANCE TO BE ENCUMBERED NEXT FISCAL YEAR. COMM LINE DESC: Env Svc (Not Otherwise Classified) EXTENDED DESC: PROGRAMMATIC BIOLOGICAL ASSESSMENT AND INITIAL STUDY - CARMEL RIVER LAGOON 001 - 1050 - 8038 - CAO017 - 6613 - - - 75000.00	.00	.00	75,000.00

RECEIVED
BY *[Signature]* DATE 5/24/13

<input type="checkbox"/> THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY	ORDER TOTAL	75,000.00
--	--------------------	-----------

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	COUNTY BUYER INFORMATION TELEPHONE: EMAIL:
---	---

AUTHORIZED BY COUNTY OF MONTEREY
DEPUTIZED PURCHASING AGENT

Michael R. [Signature]

PRINT DATE: 05/24/13

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



Monterey County

Item No.40

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-504

September 27, 2022

Introduced: 9/12/2022

Current Status: Housing & Community
Development - Consent

Version: 1

Matter Type: BoS Agreement

REF220004 - PROFESSIONAL SERVICES AGREEMENT FOR GENERAL PLAN ELEMENTS UPDATES

- a. Approve a Professional Services Agreement with Harris & Associates, Inc., to provide services to update the Housing Element, Safety Element, create the Environmental Justice Element, and prepare an environmental study for the not to exceed amount of \$967,520 and for a term October 1, 2022 to September 30, 2025; and
- b. Authorize the Contracts/Purchasing Officer of Contracts/Purchasing Supervisor to execute the Professional Services Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount by more than ten percent (10%), subject to review and approval by County Counsel.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve a Professional Services Agreement with Harris & Associates, Inc., to provide services to update the Housing Element, Safety Element, create the Environmental Justice Element, and prepare an Environmental for the not to exceed amount of \$967,520 and for a term October 1, 2022 to September 30, 2025; and
- b. Authorize the Contracts/Purchasing Officer of Contracts/Purchasing Supervisor to execute the Professional Services Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount by more than ten percent (10%), subject to review and approval by County Counsel.

SUMMARY/DISCUSSION:

The Professional Services Agreement (PSA) with Harris & Associates, Inc., will provide professional services for the updates to the County's Housing Element and Safety Element, as well as the preparation of a new Environmental Justice Element. The term of the PSA is October 1, 2022 to September 30, 2025 for the not to exceed amount of \$967,520.

The adopted 2010 General Plan contains a total of eight elements with goals, policies, and regulations that govern the long-term plan for the County. The County's current General Plan was adopted by the County on October 26, 2010.

HOUSING ELEMENT

Government Code section 65580 *et seq.* specifies that the Housing Element must assess housing needs and evaluate the current housing market in the County and then identify programs that will meet

those housing needs. Also included is the community's "Regional Housing Needs Allocation" (RHNA) which provides an estimate of the number of housing units that should be provided in order for the community to meet its share of new households in the region. The Housing Element document must review and evaluate its past housing programs and consider this review in planning future housing strategies. In the 5th Housing Element Cycle, which was approved by the Board of Supervisors on January 26, 2016, the RHNA was 1,551 units. Compare that to the expected RHNA of 3,326 units, and there is a projected 114% increase.

SAFETY ELEMENT

The Safety Element is one of the elements included in the adopted General Plan. This element combines the state mandated safety and noise elements. It establishes policies and programs to protect the public from risks associated with seismic, geologic, flood, and wildfire hazards. Pursuant to Government Code section 65302(g), the Safety Element requires updating. This Code requires local jurisdictions to update the Safety Element to address flood hazard zone, fire hazards, and climate adaption and resilience strategies upon revision of the Housing Element.

ENVIRONMENTAL JUSTICE ELEMENT

Currently, the Environmental Justice Element is not part of the adopted General Plan; however, the County is seeking to incorporate this stand-alone element. The element shall be prepared pursuant to Government Code section 65302(h), which requires that local jurisdictions prepare an Environmental Justice Element or related goals, policies, and objectives integrated into other elements that identify disadvantaged communities within the County. This includes identifying policies to reduce the unique or compounded health risks in environmental justice communities, prioritizing programs that address the needs of these communities, and promoting community engagement in decision-making processes.

Harris & Associates, Inc., was selected for their expertise and capabilities necessary to provide these services through a competitive selection process (RFP #10832) in accordance with County policies and state laws.

OTHER AGENCY INVOLVEMENT:

The Offices of the County Counsel and Auditor-Controller have reviewed and approved the PSA as to form and legality, and fiscal provisions, respectively.

FINANCING:

The total not to exceed amount of this PSA is \$967,520. The cost of these services will be performed over a three- (3-) year period during FY 2022-23, FY 2023-24, and FY 2024-25. Funding for this project in the amount of \$560,000 was included in the FY2022-23 Adopted Budget for HCD Unit 8543, Appropriation Unit HCD002 from the Cannabis Assignment. Future work under this PSA is contingent on additional funding. Augmentation requests for future year funding will be included in the Departments Requested Budget for FY2023-24 and FY2024-25.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This project supports the Board of Supervisors' Strategic Initiatives with revision of the Housing Element for the 6th Cycle Update which will contribute to strengthening a diversified and healthy economy by removing barriers to potential housing development and promoting jobs/housing balance.

The Housing Element 6th Cycle Update would include strategies to ease the discretionary review process of potential housing development for the effective and efficient management of resources. The Safety Element Update and preparation of a new Environmental Justice Element will include policies that improve the health and quality of life for Monterey County residents, especially those community members who experience a greater burden of health risks and have inadequate means to rehabilitate from disasters exacerbated by the effects of climate change. Infrastructure needs will be analyzed in the Safety Element Update for areas of less than two points of egress and existing development within known hazard areas.

 X Economic Development
 X Administration
 X Health & Human Services
 X Infrastructure
 X Public Safety

Prepared by: Kathy Nielsen, Management Analyst II
Jaime Scott Guthrie, AICP, Senior Planner, x6414
Reviewed by: Melanie Beretti, AICP, Principal Planner
Approved by: Erik V. Lundquist, AICP, Director

The following attachments are on file with the Clerk of the Board:
Attachment 1 - PSA with Harris & Associates, Inc.
Attachment 2 - RFP #10832



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-504

September 27, 2022

Introduced: 9/12/2022

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

REF220004 - PROFESSIONAL SERVICES AGREEMENT FOR GENERAL PLAN ELEMENTS UPDATES

- a. Approve a Professional Services Agreement with Harris & Associates, Inc., to provide services to update the Housing Element, Safety Element, create the Environmental Justice Element, and prepare an environmental study for the not to exceed amount of \$967,520 and for a term October 1, 2022 to September 30, 2025; and
- b. Authorize the Contracts/Purchasing Officer of Contracts/Purchasing Supervisor to execute the Professional Services Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount by more than ten percent (10%), subject to review and approval by County Counsel.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve a Professional Services Agreement with Harris & Associates, Inc., to provide services to update the Housing Element, Safety Element, create the Environmental Justice Element, and prepare an Environmental for the not to exceed amount of \$967,520 and for a term October 1, 2022 to September 30, 2025; and
- b. Authorize the Contracts/Purchasing Officer of Contracts/Purchasing Supervisor to execute the Professional Services Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount by more than ten percent (10%), subject to review and approval by County Counsel.

SUMMARY/DISCUSSION:

The Professional Services Agreement (PSA) with Harris & Associates, Inc., will provide professional services for the updates to the County's Housing Element and Safety Element, as well as the preparation of a new Environmental Justice Element. The term of the PSA is October 1, 2022 to September 30, 2025 for the not to exceed amount of \$967,520.

The adopted 2010 General Plan contains a total of eight elements with goals, policies, and regulations that govern the long-term plan for the County. The County's current General Plan was adopted by the County on October 26, 2010.

HOUSING ELEMENT

Government Code section 65580 *et seq.* specifies that the Housing Element must assess housing needs and evaluate the current housing market in the County and then identify programs that will meet those housing needs. Also included is the community's "Regional Housing Needs Allocation"

(RHNA) which provides an estimate of the number of housing units that should be provided in order for the community to meet its share of new households in the region. The Housing Element document must review and evaluate its past housing programs and consider this review in planning future housing strategies. In the 5th Housing Element Cycle, which was approved by the Board of Supervisors on January 26, 2016, the RHNA was 1,551 units. Compare that to the expected RHNA of 3,326 units, and there is a projected 114% increase.

SAFETY ELEMENT

The Safety Element is one of the elements included in the adopted General Plan. This element combines the state mandated safety and noise elements. It establishes policies and programs to protect the public from risks associated with seismic, geologic, flood, and wildfire hazards. Pursuant to Government Code section 65302(g), the Safety Element requires updating. This Code requires local jurisdictions to update the Safety Element to address flood hazard zone, fire hazards, and climate adaption and resilience strategies upon revision of the Housing Element.

ENVIRONMENTAL JUSTICE ELEMENT

Currently, the Environmental Justice Element is not part of the adopted General Plan; however, the County is seeking to incorporate this stand-alone element. The element shall be prepared pursuant to Government Code section 65302(h), which requires that local jurisdictions prepare an Environmental Justice Element or related goals, policies, and objectives integrated into other elements that identify disadvantaged communities within the County. This includes identifying policies to reduce the unique or compounded health risks in environmental justice communities, prioritizing programs that address the needs of these communities, and promoting community engagement in decision-making processes.

Harris & Associates, Inc., was selected for their expertise and capabilities necessary to provide these services through a competitive selection process (RFP #10832) in accordance with County policies and state laws.

OTHER AGENCY INVOLVEMENT:

The Offices of the County Counsel and Auditor-Controller have reviewed and approved the PSA as to form and legality, and fiscal provisions, respectively.

FINANCING:

The total not to exceed amount of this PSA is \$967,520. The cost of these services will be performed over a three- (3-) year period during FY 2022-23, FY 2023-24, and FY 2024-25. Funding for this project in the amount of \$560,000 was included in the FY2022-23 Adopted Budget for HCD Unit 8543, Appropriation Unit HCD002 from the Cannabis Assignment. Future work under this PSA is contingent on additional funding. Augmentation requests for future year funding will be included in the Departments Requested Budget for FY2023-24 and FY2024-25.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This project supports the Board of Supervisors' Strategic Initiatives with revision of the Housing Element for the 6th Cycle Update which will contribute to strengthening a diversified and healthy economy by removing barriers to potential housing development and promoting jobs/housing balance. The Housing Element 6th Cycle Update would include strategies to ease the discretionary review

process of potential housing development for the effective and efficient management of resources. The Safety Element Update and preparation of a new Environmental Justice Element will include policies that improve the health and quality of life for Monterey County residents, especially those community members who experience a greater burden of health risks and have inadequate means to rehabilitate from disasters exacerbated by the effects of climate change. Infrastructure needs will be analyzed in the Safety Element Update for areas of less than two points of egress and existing development within known hazard areas.

 X Economic Development
 X Administration
 X Health & Human Services
 X Infrastructure
 X Public Safety

Prepared by: Kathy Nielsen, Management Analyst II
Jaime Scott Guthrie, AICP, Senior Planner, x6414
Reviewed by: Melanie Beretti, AICP, Principal Planner
Approved by: Erik V. Lundquist, AICP, Director *EVL*

The following attachments are on file with the Clerk of the Board:
Attachment 1 - PSA with Harris & Associates, Inc.
Attachment 2 - RFP #10832

Attachment 1

This page intentionally left blank.

COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES WITH SURVEYORS, ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS

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

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

1. **SERVICES TO BE PROVIDED.** The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The services are generally described as follows:
Provide an update to the General Plan Housing and Safety Elements, and preparation of an Environmental Justice Element in a manner that is consistent with current State law.
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 \$967,520.
3. **TERM OF AGREEMENT.** The term of this Agreement is from October 1, 2022 to September 30, 2025, 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 **RFP #10832, Update to the General Plan Housing and Safety Elements and
Creation of an Environmental Justice Element**

5. **PERFORMANCE STANDARDS.**

- 5.01. CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

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

6. PAYMENT CONDITIONS.

- 6.01. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to the 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 thirty (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 thirty (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 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 County, or defect in a design furnished by County, but in no event shall the amount of such CONTRACTOR's liability exceed such CONTRACTOR's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against County is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.

8.03 Indemnification for All Other Claims or Loss:

For any claim, loss, injury, damage, expense or liability other than claims arising out of CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless the 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 County.

9. **INSURANCE.**

9.01 Evidence of Coverage:

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

This verification of coverage shall be sent to the County's Contracts/Purchasing Division, 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 coverages, 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).

Requestor must check the appropriate Automobile Insurance Threshold:

Requestor must check the appropriate box.

- ☐ Agreement Under \$100,000 Business Automobile Liability Insurance: Covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.
- ☒ Agreement Over \$100,000 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 or Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: Any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County 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 (3) 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 (3) 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 (30) days in advance of each 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 (5) 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 (5) 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 the 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 (3) 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- (3-) 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 (3) 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, or any other characteristic set forth in California Government code § 12940(a), 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. COMPLIANCE WITH APPLICABLE LAWS.**
- 13.01 CONTRACTOR shall keep itself informed of and in compliance with all federal, state, and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement as well as any privacy laws including, if applicable, Health Insurance portability and Accountability Act (HIPAA). CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.
- 13.02 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.
- 13.03 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations, and guidelines that are in force at the time such documentation is prepared.
- 14. 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.
- 15. 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:
Kathy Nielsen, Management Analyst II	Hitta Mosesman, Vice President
Name and Title	Name and Title
Housing & Community Development	Harris & Associates, Inc.
1441 Schilling Place, South 2 nd Floor	450 Lincoln Avenue, Suite 103
Salinas, CA 93901-4527	Salinas, CA 93901
Address	Address

(831) 755-4832
 194-HCD-Contracts@co.monterey.ca.us
 Phone

(949) 291-3729
 Hitta.Mosesman@WeAreHarris.com
 Phone

16. MISCELLANEOUS PROVISIONS.

- 16.01 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.
- 16.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 16.03 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.
- 16.04 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.
- 16.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 16.06 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.
- 16.07 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.
- 16.08 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 16.09 Time is of the Essence. Time is of the essence in each and all the provisions of this Agreement.
- 16.10 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 16.11 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.

- 16.12 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.
- 16.13 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.
- 16.14 Integration. This Agreement, including the exhibits, represents 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.
- 16.15 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.

17. **CONSENT TO USE OF ELECTRONIC SIGNATURES.**

- 17.01 The parties to this Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 USC section 7001 *et seq.*; California Government Code section 16.5; and, California Civil Code section 1633.1 *et seq.* Pursuant to said state and federal law as may be amended from time to time, the parties to this Agreement hereby authenticate and execute this Agreement, and any and all Exhibits to this Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF).
- 17.02 Counterparts. The parties to this Agreement understand and agree that this Agreement can be executed in two (2) or more counterparts and transmitted electronically via facsimile transmission or by delivery of a scanned counterpart in PDF via email transmittal.
- 17.03 Form: Delivery by E-Mail or Facsimile. Executed counterparts of this Agreement may be delivered by facsimile transmission or by delivery of a scanned counterpart in PDF by e-mail transmittal, in either case with delivery confirmed. On such confirmed delivery, the signatures in the facsimile or PDF data file shall be deemed to have the same force and effect as if the manually signed counterpart or counterparts had been delivered to the other party in person.

*****THIS SECTION INTENTIONALLY LEFT BLANK*****

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

COUNTY OF MONTEREY

CONTRACTOR

By: _____
Contracts/Purchasing Officer

Date: _____

By: _____
Department Head (if applicable)

Date: _____

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel¹

By: _____
DocuSigned by:
Kelly L. Donlon, Assistant County Counsel
22D690CA05A940B... County Counsel

Date: 9/13/2022

Approved as to Fiscal Provisions²

By: _____
DocuSigned by:
Jennifer Forsyth
4E7E657875452A... Auditor-Controller

Date: 9/13/2022

Approved as to Liability Provisions
Office of the County Counsel
Leslie J. Girard, County Counsel³

By: _____
Risk Management

Date: _____

Harris & Associates, Inc.
Contractor's Business Name*

By: _____
DocuSigned by:
Hitta Mosesman
(Signature of Chair, President, or Vice President) *

Hitta Mosesman, Vice President
Name and Title

Date: 9/12/2022

By: _____
DocuSigned by:
Steve Winchester
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Steve Winchester, CFO
Name and Title

Date: 9/13/2022

County Board of Supervisors' Agreement Number: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If the CONTRACTOR is a partnership, the full legal 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.

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

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

³ Approval by Risk Manager is required only if changes are made in paragraphs 8 or 9.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

To Agreement by and between
County of Monterey, hereinafter referred to as “County”
and
Harris & Associates, Inc., hereinafter referred to as “CONTRACTOR”

A. SCOPE OF SERVICES

A.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Task 1 – Project Management and Coordination

Task 1.1 – Kick-Off Meeting

CONTRACTOR shall lead a virtual kick-off meeting with County staff to discuss project expectations regarding coordination, preferred communication methods, frequency of communication, check-ins/report outs, deliverables, relevant documents and project information, and data needed from County staff.

Deliverables:

- *CONTRACTOR shall provide one draft and one final agenda (no less than three days prior to the meeting)*
- *Summary of meeting for GPU kick-off (within one week following meeting)*

Task 1.2 – Schedule

CONTRACTOR shall, working with County staff, provide a final project schedule within 14 business days following the kick-off meeting. The schedule shall include the following tasks and milestones pursuant to State requirements:

- Project milestones (tasks) with time allotted for staff review of work products.
- A public outreach timeline with public meetings and anticipated commission and counsel hearing.
- Anticipated environmental review timeline.
- Timelines for response to CA HCD review and certification of the Housing Element, including County staff review times.

Deliverables:

- *CONTRACTOR shall provide a draft project schedule within three days prior to the kick-off meeting*
- *CONTRACTOR shall provide a finalized project schedule within 14 business days following the kick-off meeting.*

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

- *CONTRACTOR shall review schedules at least once per month, and provide updated schedule as needed and not less than quarterly.*

Task 1.3 – Bimonthly Status Update Meetings

CONTRACTOR shall provide bi-monthly virtual meetings with County staff, determined by County Project Manager, during the process to review project status and verify that objectives and milestones are being achieved.

Deliverable:

CONTRACTOR shall coordinate bi-monthly virtual status update meetings (up to 36).

Task 1.4 – Meeting Participation

CONTRACTOR shall be available, at the discretion of County Project Manager, to participate in and lead meetings with staff and public forums as listed below. This task includes meeting participation needed for meetings to prepare for, and leading up to, community and stakeholder meetings as described in Task 2. Meeting topic discussion will include meeting preparation (i.e., PowerPoint presentations, agendas and handouts, minutes, action items and research) and follow up in coordination with and/or as directed by County Project Manager.

CONTRACTOR shall be available for any additional briefings, study sessions, meetings and/or hearings, as needed and as budget allows.

CONTRACTOR shall respond to public or agency comments and shall be available to attend additional meetings/hearings on a time and materials basis.

CONTRACTOR shall provide a data request after the kick-off meeting.

CONTRACTOR shall prepare noticing documents for public workshops and posting to the County's website, social media accounts, and at various locations within the community.

Deliverables:

- *One kick-off meeting with County staff to finalize work scope and initial project schedule and discuss project strategy and management (see Task 1.1).*
- *Up to 36 project status update meetings (virtual) with the County designated Project Manager on a bi-monthly basis (see Task 1.3).*
- *Up to two community meetings (virtual) on the Housing Element update (see Task 2.2).*

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

- *Up to two community meetings (virtual) on the Safety Element update (see Task 2.2).*
- *Up to two community meetings (virtual) on the new Environmental Justice Element (see Task 2.2).*
- *One Community Open House for public review of the draft elements (see Task 2.2).*
- *Two rounds of virtual stakeholder interviews (up to 18 group meetings) (see Task 2.3).*
- *Up to two community meetings (virtual) on rezoning (see optional Task 3.7)*
- *Up to two project briefings (virtual) each with the Board of Supervisors and Planning Commission on an as-needed basis (a total of four meetings) (see Task 2.4).*
- *Two GPU introductory sessions, one each with the Board of Supervisors and Planning Commission (see Task 2.4).*
- *Up to five virtual public hearings for Housing Element Update, Safety, Environmental Justice, Zoning, and CEQA adoption purposes with Planning Commission and Board of Supervisors (Task 6).*
- *CONTRACTOR shall coordinate with CA HCD staff on any questions related to new Housing Element requirements, respond to any CA HCD inquiries and requests for information, and shall submit the draft and final versions of the Housing Element to CA HCD for up to two Draft Housing Element submittals (Task 3.7).*

Task 2 – Community Outreach and Engagement

CONTRACTOR shall develop a program that effectively reaches, educates and engages the community throughout the update of the General Plan Elements.

CONTRACTOR shall prepare one handout for the Housing Element Update and one handout for both the Safety and Environmental Justice Elements to be used for noticing community meetings, providing web addresses for online information and general information about the Element (s).

Deliverable:

One draft and one final of a Housing Element handout and one draft and one final of a combined Safety and Environmental Justice handout.

Task 2.1 – Community Engagement Plan

CONTRACTOR shall develop a Community Engagement Plan that provides a framework and strategy for community members to be engaged in the General Plan update process.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

Deliverable:

One draft and one final Community Engagement Plan.

Task 2.2 – Community Surveys and Workshops

CONTRACTOR shall not commence work on Task 2.2 without prior written authorization from the County.

CONTRACTOR shall work with County staff to develop one Housing Element and one combined Safety/Environmental Justice community survey to gather input on issues pertinent to the Housing, Safety, and Environmental Justice Elements.

CONTRACTOR shall conduct virtual workshops focused on engaging the community to develop and review policies for the General Plan Update.

CONTRACTOR shall provide two community workshops per element (total of six) and two more for Optional Task 3.6.1, Rezoning. Community workshops will be provided as hybrid – virtual and in-person – unless COVID 19 restrictions warrant holding only virtual meetings. CONTRACTOR shall attend all meetings virtually.

CONTRACTOR shall work with County staff to determine the purpose of each meeting, including whether the meetings will be similar content/presentation at different locations and times or the meetings will provide successive information for initial input and then for focused feedback.

Deliverables:

- *One draft and one final Housing Element Community Survey.*
- *One draft and one final combined Safety/Environmental Justice Community Survey.*
- *Up to two community meetings, to be held as hybrid (virtual and in-person), for each of the three Elements to include agenda, noticing material, presentation, and workshop summary memo.*
- *Up to two community meetings, to be held as hybrid (virtual and in-person), on rezoning (see optional Task 3.6).*
- *One Community Open House.*

Task 2.3 – Stakeholder Focus Group Meetings

CONTRACTOR shall work with County staff to develop framework and logistics for two rounds of stakeholder focus group meetings (up to 18). Focus group meetings shall be hybrid virtual/in-person or virtual. unless COVID 19 restrictions warrant holding only virtual meetings.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

CONTRACTOR shall attend all meetings virtually.

County staff shall identify and contact all appropriate groups to schedule and setup focus meetings. Below is a preliminary list of proposed stakeholder focus groups:

- Housing advocacy groups
- Renters
- Businesses and economic industry groups
- Property Owners (Task 3.4.3)
- Development community, including affordable housing developers
- Non-profit organizations & service providers
- Community groups, leaders and civic organizations
- Elementary and secondary schools
- Colleges and universities
- Youths
- Local agencies and utilities
- Health and wellness organizations and service providers
- Climate advocacy groups

Deliverable:

Two rounds of stakeholder focus group meetings (up to 18), including agenda, points for discussion and meeting summary memo (one draft and one final of all documents).

Task 2.4 – County Leadership Meetings

CONTRACTOR shall attend up to six briefings and introductory sessions with the Board of Supervisors and Planning Commission during the GPU process and provide support to County staff.

CONTRACTOR will provide support in the form of one draft and one final PowerPoint presentation for each meeting as directed by County staff.

Deliverable:

Attendance and support for up to nine briefings and meetings Board of Supervisors and Planning Commission on an as needed basis (up to nine).

Task 2.5 – Messaging and Materials

CONTRACTOR shall prepare content for General Plan Update web page – this includes general content such as an overview of the Housing, Safety, and Environmental Justice Elements, a summary of community outreach to date, outreach materials, and link to surveys. This task does not include creating the dedicated web page or uploading the content.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

CONTRACTOR shall also prepare content for social media posts for the County's Facebook, Twitter, and Instagram accounts to keep the community updated on the GPU progress and notify the community of engagement opportunities.

CONTRACTOR will prepare content for email blasts to interest lists as needed.

Deliverable:

One draft and one final version of website content for GPU page, content for social media posts and content for email blasts to interest lists.

Task 3 – Update to the Housing Element (Sixth Cycle)

Task 3.1 – Existing Housing Conditions and Need (including Special Housing needs)

CONTRACTOR shall not commence work on Task 3.1 without prior written authorization from the County.

Task 3.1.1 – Community Profile/Housing Needs

CONTRACTOR shall develop the Community Profile section for the Housing Element. In order to develop this section, the CONTRACTOR shall do the following:

CONTRACTOR shall provide jurisdiction-specific graphs and write-ups with supporting data, including population, demographic, housing, market conditions and regional comparisons.

CONTRACTOR shall gather data to provide analysis of the availability, adequacy and affordability of housing.

CONTRACTOR shall develop a current housing inventory and evaluate housing conditions and needs through data sources and public engagement.

CONTRACTOR shall draft a housing needs assessment to identify the following:

- Population, demographic and employment trends
- Special housing needs and its relation to fair housing
- Existing housing stock characteristics

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

Deliverable:

One draft and one final Community Profile section (to be incorporated into the Administrative Draft Housing Element).

Task 3.1.2 – Housing Resources

CONTRACTOR shall develop the Housing Resources section for the Housing Element. In order to develop this section, the CONTRACTOR shall do the following.

CONTRACTOR shall research, identify and document all available programmatic, physical (land) and financial housing related resources.

CONTRACTOR shall evaluate existing policies and analyze resources to include the following:

- Funding resources
- Regulatory incentives for housing
- Residential development energy conservation opportunities
- Opportunities for furthering fair housing

Deliverable:

One draft and one final Housing Resources section (to be incorporated into the Administrative Draft Housing Element)

Task 3.1.3 – At-Risk Affordable Units

CONTRACTOR shall draft a stand-alone At-Risk Affordable Units section to identify existing income-restricted and assisted housing developments eligible to change designation from very low, low and/or moderate-income housing during the Housing Element planning period (i.e., at-risk units).

CONTRACTOR shall include a cost analysis for extending covenants and replacing at-risk affordable units.

Deliverable:

One draft and one final At-Risk Affordable Units section (to be incorporated into the Administrative Draft Housing Element)

Task 3.2 – Housing Constraints

CONTRACTOR shall not commence work on Task 3.2 without prior written authorization from the County.

CONTRACTOR shall develop the Housing Constraints section for the Housing Element. In order to develop this section, the CONTRACTOR will do the following.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

CONTRACTOR shall identify potential and actual governmental and nongovernmental constraints and impediments to housing for the production, maintenance, and improvement of housing across income levels within the County.

CONTRACTOR shall provide cross-jurisdictional comparisons with several Monterey County cities of fees only, as this information is publicly available on city websites as required by State law.

CONTRACTOR shall provide write ups of countywide non-governmental constraints, which typically includes community opposition to housing, cost of construction, limited availability of land and other topics.

Deliverable:

One draft and one final Housing Constraints section (to be included in the Administrative Draft Housing Element)

Task 3.3 – Review of the Existing Housing Element

CONTRACTOR shall develop the Fifth Cycle Review section for the Housing Element. In order to develop this section, the CONTRACTOR will do the following.

CONTRACTOR shall review the current Housing Element (Fifth Cycle) and identify the County's success in accomplishing/implementing the identified goals, policies, and programs; provide explanations and updates where goals, policies or programs are in progress, have been abandoned or have not proven effective.

CONTRACTOR shall finalize an overview of the adopted Housing Element and include requirements for coastal zone communities pursuant to California Government Code section 65588 (c) and (d).

Deliverable:

One draft and one final Fifth Cycle Review section (to be incorporated into the Administrative Draft Housing Element).

Task 3.4 – Sites Inventory

CONTRACTOR shall develop the Regional Housing Needs Assessment (RHNA) Inventory, Property Owner Outreach Materials (limited to an email to property owners, a list of talking points, an agenda and a PowerPoint presentation), and Site Inventory and Analysis section for the Housing Element, which includes review and analysis of vacant and underutilized sites to accommodate the Sixth Cycle RHNA allocation.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

This task shall begin immediately following the finalization of the Community Engagement Plan.

Task 3.4.1 – Adequate Sites Analysis

CONTRACTOR shall analyze the vacant and non-vacant land inventory from the existing Housing Element to determine

- Sites developed with housing since the adoption of the Fifth Cycle housing Element.
- Number of units constructed, under construction and/or approved on the sites.
- The income levels for all units.

CONTRACTOR shall use the sites inventory and analysis to prepare a comparison of the relationship between the projected housing needs and the dwelling unit capacity and availability of services to said sites.

Task 3.4.2 – Develop Draft RHNA Land Inventory

CONTRACTOR shall work with County staff to develop criteria and prepare a draft RHNA land inventory listing and map to use during stakeholder outreach. The draft RHNA Land Inventory will identify the development potential for possible housing sites to be vetted through the property owner outreach process described in Task 3.4.3.

Task 3.4.3 – Conduct Outreach to Property Owner Identified in Draft RHNA Land Inventory

CONTRACTOR shall develop an agenda and list of questions and talking points for the property owner meetings.

CONTRACTOR shall, working with County staff, develop an initial email or letter to property owners identified in the Draft RHNA Land Inventory.

CONTRACTOR shall provide a brief PowerPoint presentation for use at the property owner meetings.

Task 3.4.4 – Prepare Final RHNA Inventory

CONTRACTOR shall prepare a final RHNA Land Inventory spreadsheet containing the State-mandated data for all sites.

Deliverable:

One draft and one final RHNA Inventory, Property Owner Outreach Materials, and Site Inventory and Analysis section of the Housing Element (to be incorporated into the Administrative Draft Housing Element).

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

Task 3.5 – Goals, Policies, Programs and Quantified Objectives

CONTRACTOR shall develop the Housing Plan section for the Housing Element. In order to develop this section, the CONTRACTOR will do the following:

- CONTRACTOR shall, working with County staff, formulate an implementation plan with achievable housing policies and quantified objectives.
- CONTRACTOR shall review existing goals and policies of the current housing element to determine additions, deletions, or modifications.
- CONTRACTOR shall identify other General Plan policy updates or revisions needed to ensure consistency.

Deliverable:

One draft and one final Housing Plan section (to be incorporated into the Administrative Draft Housing Element).

Task 3.6 – Affirmatively Furthering Fair Housing (AFFH)

CONTRACTOR shall not commence work on Task 3.6 without prior written authorization from the County.

CONTRACTOR shall develop the AFFH section for the Housing Element, ensuring the AFFH section meets mandated requirements and standards set by the HUD AFFH Rule and AB 686.

Deliverable:

One draft and one final AFFH section (to be incorporated into the Administrative Draft Housing Element).

3.7 - Rezoning

CONTRACTOR shall work with County staff to identify if additional area is needed to be rezoned to accommodate the RHNA numbers. If additional areas are needed, CONTRACTOR shall work with County staff to identify potential areas for rezoning. This must include consideration of the State requirement for maintaining an adequate housing sites inventory throughout the eight-year planning period.

CONTRACTOR shall provide a revised scope of work and cost estimate for Task 3.7 to reflect the effort required to complete this task. The CONTRACTOR'S scope of work assumes a very limited rezoning effort and cannot begin work without defining the scope which will not be known until the Sites Inventory is finalized.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

Deliverable:

One First Administrative Draft, one Second Administrative Draft and one Public Review Draft Zoning Ordinance Amendment (ZOA) with zoning map.

Task 3.8 – Draft and Final Housing Element

CONTRACTOR shall prepare and submit an Administrative Draft Housing Element for County staff review and edit.

CONTRACTOR shall prepare five (three full documents) Draft Housing Elements to include:

- One Administrative Draft for County staff and legal counsel review and comment (in sections).
- One Draft Housing Element for public distribution that incorporates staff and legal counsel comments for submission to the Planning Commission and other committees, as needed, prior to submission to CA HCD.
- One Revised Draft Housing Element that incorporates the comments from the Planning Commission and other committees.
- Two additional Revised Draft Housing Element documents that incorporate edits/other information per CA HCD findings.

CONTRACTOR shall work closely with County staff and CA HCD to respond to comments received from the public and CA HCD to make edits to the Administrative Draft document in preparation of a Draft Housing Element as part of two submissions to CA HCD.

CONTRACTOR shall work closely with County staff to respond to comments received from the Planning Commission and other committees to make edits to the Draft Housing Element in preparation of a Revised Draft document.

CONTRACTOR shall provide Revised Draft Housing Element documents for two subsequent CA HCD submittals following the initial submittal and review, and prior to the Final Housing Element.

CONTRACTOR shall attend Board of Supervisors public hearing(s) virtually to receive the Final Housing Element.

Deliverables:

- *One Administrative Draft and four Revised Draft Housing Element documents.*
- *One Final Housing Element.*

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

Task 4 – Update to the Safety Element

Task 4.1 – Review of the existing Safety Element

CONTRACTOR shall review, evaluate, and update the current Safety Element to determine and ensure its compliance with State law.

CONTRACTOR shall work with County staff to incorporate relevant new information from the 2022 Monterey County Multi-Jurisdictional Hazard Mitigation Plan Volume 1 and Annex A of Volume 2.

Task 4.2 – Provide Recommendations

CONTRACTOR shall, after review of existing County's Safety Element, provide list of any corrections that must be made to text and/or exhibits in the Safety Element to bring it into compliance with State law.

Deliverable:

List of recommendations on topic and revisions.

Task 4.3 – Draft Safety Element Update

CONTRACTOR shall work with County staff to update the Safety Element to ensure consistency with other General Plan elements and other planning documents, and to ensure compliance with State law.

Task 4.3.1 – Safety Element Kick-Off

CONTRACTOR shall coordinate a virtual kick-off meeting with County staff to confirm scope and timeline, review proposed updates and recommendations to the existing Safety Element.

Deliverables:

- *One draft and one final Agenda*
- *Summary of meeting for Safety Element kick-off meeting*

Task 4.3.2 – Plan Review and Data Collection

CONTRACTOR shall prepare a request for information to include GIS data maintained by the County on critical facilities, emergency response facilities, and natural hazards.

CONTRACTOR shall evaluate existing data and identify additional data needs.

Deliverables:

- *Request for Information (RFI)*
- *Summary of identified data gaps*

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

Task 4.3.3 – Mapping and Hazard Profiles

CONTRACTOR shall update existing Safety Element maps as needed and prepare new maps and exhibits for natural hazards, climate change, emergency preparedness and hazardous materials.

CONTRACTOR shall assimilate locations of critical buildings and compare to particular hazard zones.

CONTRACTOR shall prepare a profile or description of each hazard to be addressed in the Safety Element and revise maps based on feedback.

Deliverables:

- *Draft and revised maps and exhibits*
- *Draft and revised hazard profiles*

Task 4.3.4 – Safety Committee Meetings

CONTRACTOR shall work with County staff to identify appropriate subject matter experts, including fire marshals, sheriff, and emergency managers to serve on the Safety Committee.

CONTRACTOR shall coordinate and facilitate two virtual Safety Committee meetings through the Safety Element update process, including one internal review meeting with County staff and the Safety Committee to review hazard profiles and draft maps.

Deliverable:

Two Safety Committee meetings (agendas, presentations, and meeting summaries)

Task 4.3.5 – Draft Safety Element

CONTRACTOR shall prepare an Administrative Draft Safety Element to include all text and graphics to facilitate a “user friendly” document for County staff and legal counsel review and comment.

CONTRACTOR shall update areas of the existing Safety Element as needed and address requirements of State law for preparation of an Administrative Draft Safety Element.

CONTRACTOR shall work closely with County to incorporate comments received from legal counsel, public, Safety Committee, and state agencies into the Administrative Draft Safety Element.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

CONTRACTOR shall prepare the following to include, though not limited to, in the Administrative Draft Safety Element: Natural Hazard Maps, Vulnerability Assessment, Emergency Evacuation Analysis, List of Emergency Response Services, and Hazardous Materials Policies.

CONTRACTOR shall prepare a list of new and revised goals and policies for inclusion in the Administrative Draft Safety Element.

Deliverables:

- *One Draft and one Revised Draft matrix of updated goals and policies*
- *One Administrative Draft Safety Element (internal review)*

Task 4.4 – Final Safety Element and Hearings

CONTRACTOR shall prepare and submit two Draft Safety Element documents for County staff review and edit

- One Draft Safety Element for public review that incorporates comments from staff, legal counsel, public, and Safety Committee provided on the Administrative Draft. The public review Draft Safety Element will be sent to state agencies for review.
- One Revised Draft Safety Element that incorporates comments from the Planning Commission and other committees, as needed.

CONTRACTOR shall incorporate County staff feedback from the Administrative Draft Safety Element in preparation of a Draft Safety Element for public review to be posted to the County's website.

CONTRACTOR shall coordinate with California Geological Survey and with the State Board of Forestry (CalFire) for consultation to review an Administrative Draft Safety Element, as required by Government Code.

CONTRACTOR shall provide the Draft Safety Element for submission to the California Geological Survey and the Board of Forestry for submittal and review.

CONTRACTOR shall work closely with County staff to respond to comments received from the Planning Commission and other committees to make edits to the Revised Safety Element in preparation of a Final document.

CONTRACTOR shall prepare a Final Safety Element.

CONTRACTOR shall attend Board of Supervisors public hearing(s) to receive the Final Safety Element.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

Deliverables:

- *One Draft Safety Element.*
- *One Revised Draft Safety Element.*
- *One Final Safety Element.*

Task 5 – Preparation of an Environmental Justice Element

CONTRACTOR shall work with County staff to draft an Environmental Justice Element to ensure alignment with other General Plan elements and planning documents.

CONTRACTOR shall conduct an initial assessment of disadvantaged communities within the County.

Task 5.1 – Establish Community Advisory Committee (CAC)

CONTRACTOR shall work with County staff to identify and recruit community representatives, members and activists; community-based organizations; public health officials, and other under-represented groups.

Deliverable:

List of potential community organizations, interest form, application (if needed), invitation to join the CAC.

Task 5.2 – Environmental Justice Element Kick-Off Meeting

CONTRACTOR shall coordinate a virtual kick-off meeting with County staff to review and finalize the scope of work and request data from the County.

CONTRACTOR shall provide recommendations for the format of the Environmental Justice Element.

Deliverables:

- *One draft and one final Agenda*
- *Summary of meeting for Environmental Justice Element kick-off.*

Task 5.3 – Identify Disadvantaged Communities

CONTRACTOR shall use existing tools, including though not limited to, the SB 1000 Toolkit, CalEnviroScreen 4.0, and California Air Resources Board Priority Population Investment Areas map.

Deliverable:

Maps identifying disadvantaged communities.

Task 5.4 – Policy Review and Existing Conditions Assessment

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

CONTRACTOR shall prepare an Existing Conditions Assessment from review of County documents, including though not limited to, the General Plan to assess existing disadvantaged communities with respect to the environmental justice categories of:

- Pollution exposure
- Access to public facilities
- Access to healthy food
- Access to opportunities for physical activity
- Access to safe and sanitary homes
- Unique or compounded health risks, including exposure to climate-driven hazards
- Civic Engagement

CONTRACTOR shall identify localized data and indicators to adequately assess the disproportionate effects of environmental burdens on existing disadvantaged communities in the County.

Deliverable:

Draft Existing Conditions Assessment

Task 5.5 – Community Advisory Committee (CAC) Meetings

CONTRACTOR shall convene and facilitate three CAC meetings:

- Kick-Off
- Present Public Engagement Plan and Existing Conditions
- Present results of community engagement efforts and solicit feedback on proposed objectives and policies

Deliverable:

Three CAC meetings (invitations, agendas, presentations, meeting summaries, and attendance sheets)

Task 5.6 – Develop Public Engagement Plan

CONTRACTOR shall develop a Public Engagement Plan influenced significantly by feedback from the first CAC meeting.

Deliverables:

- *One Draft Public Engagement Plan*
- *One Final Public Engagement Plan*

Task 5.7 – Implement Public Engagement Plan

CONTRACTOR shall lead the implementation of the Public Engagement Plan upon its approval.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

CONTRACTOR shall be responsible for the development of web-page content, one community survey, and up to two hybrid community workshops.

Deliverable:

Project web-page content, draft community survey, and community workshop invitation, agenda, presentation, meeting minutes, and attendance sheet.

Task 5.8 – Develop Goals and Policies

CONTRACTOR shall develop a list of proposed environmental justice objectives and policies per Environmental Justice categories.

CONTRACTOR shall coordinate with the County staff to incorporate environmental justice goals and policies relevant to the other General Plan elements into each respective element update.

Deliverable:

Matrix of Goals and Policies, organized by Environmental Justice category.

Task 5.9 – Draft Environmental Justice Element

CONTRACTOR shall prepare a standalone Draft Environmental Justice Element featuring objectives and policies that reduce the unique or compounded health risks in disadvantaged communities.

CONTRACTOR shall address in the Draft Environmental Justice Element how the resulting Environmental Justice policies interact with other General Plan Element policies.

CONTRACTOR shall include in the Draft Environmental Justice Element recommendations for implementation that ensure improvements and investments are prioritized in the County's disadvantaged communities.

Deliverable:

Draft Environmental Justice Element

Task 5.10 – Revision to Draft Environmental Justice Element/Final

CONTRACTOR shall work closely with County staff to prepare a Revised Draft Environmental Justice Element that incorporates comments received from the CAC members, public, the Planning Commission, other committees, and County counsel on the Draft document.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

CONTRACTOR shall attend Board of Supervisors public hearing(s) to receive the Final Environmental Justice Element

Deliverables:

- *Revised Draft Environmental Justice Element*
- *Final Environmental Justice Element*

Task 6 – Public Hearings

CONTRACTOR shall coordinate with County staff on presenting the draft General Plan Elements to the Planning Commission and Board of Supervisors at public hearings.

Deliverable:

Assistance and support for up to five public hearings (one draft and one final of each).

Task 7 – Environmental Analysis (CEQA Documentation)

CONTRACTOR shall prepare all required documents for California Environmental Quality Act (CEQA) review and submittal, including the Initial Study, Mitigated Negative Declaration or Environmental Impact Report, and CEQA Determination.

Task 7.1 – Housing Element Statutory Exemption

CONTRACTOR shall prepare a Notice of Exemption to be filed with the County Clerk upon approval of the Housing Element in December 2023.

Deliverable:

Notice of Exemption

Task 7.2 – Mitigated Negative Declaration (MND) for the Safety and Environmental Justice Elements

CONTRACTOR shall prepare a CEQA MND for the Safety and Environmental Justice Elements in accordance with CEQA Guidelines Section 15063 and Appendix G.

Deliverables:

- *Electronic copies of the First Draft IS/MND*
- *Second Draft IS/MND*
- *Public Review Draft IS/MND*
- *Notice of Intent*
- *Notice of Completion/SC Environmental Summary Form*
- *Draft and Final Responses to Comments Memo*
- *Draft and Final MMRP*

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

- *Final IS/MND*
- *Notice of Determination*

Task 8 – Final Draft Hearings, Final Adoption and Certification

CONTRACTOR shall participate in phone calls with CA HCD staff.

CONTRACTOR shall help coordinate the Housing Element certification with CA HCD to achieve full compliance with the State housing element law after adoption by the County.

CONTRACTOR shall help coordinate the Safety Element Update and Environmental Justice Element final document submittals to water/sewer districts and California Office of Planning and Research to achieve full compliance with the Government Code after adoption by the County.

Deliverable:

One final version Housing and Safety Element Updates and Environmental Justice Element

THIS SECTION INTENTIONALLY LEFT BLANK

EXHIBIT B – INCORPORATION OF REQUEST FOR PROPOSALS (RFP) #10832 AND STATEMENT OF QUALIFICATION DOCUMENTS

The County invited submittals to Request for Proposals (RFP) through RFP #10832, Update to the General Plan Housing and Safety Elements, and the Preparation of an Environmental Justice Element. Harris & Associates, Inc., submitted a responsive and responsible Statement of Proposal to perform the services listed in RFP #10832.

RFP #10832 and the Statement of Proposal submitted by Harris & Associates, Inc., on file with the Housing and Community Development Department are hereby incorporated into the Agreement by this reference.

This page intentionally left blank

Attachment 2

This page intentionally left blank.



**COUNTY OF MONTEREY
HOUSING AND COMMUNITY DEVELOPMENT
1441 SCHILLING PLACE, SOUTH 2ND FLOOR
SALINAS, CA 93901-4527
(831) 755-5025**

REQUEST FOR PROPOSALS (RFP) #10832

Update to the General Plan Housing and Safety Elements, and the Preparation of an Environmental Justice Element

Proposals are due by 3:00 p.m. (PST) on June 10, 2022

(THIS PAGE INTENTIONALLY LEFT BLANK)

TABLE OF CONTENTS:

SOLICITATION DETAILS SECTION	1
1.0 INTENT	2
2.0 BACKGROUND	2
3.0 CALENDAR OF EVENTS	3
4.0 COUNTY POINT OF CONTACT	4
5.0 SCOPE OF WORK.....	5
6.0 CONTRACT TERM.....	8
7.0 LICENSING REQUIREMENTS	8
8.0 PROPOSAL PACKAGE REQUIREMENTS	9
9.0 SELECTION CRITERIA	13
10.0 SUBMITTAL INSTRUCTIONS & CONDITIONS	14
11.0 PRICING	15
12.0 PREFERENCE FOR LOCAL CONTRACTORS.....	15
13.0 CONTRACT AWARD.....	16
14.0 SEQUENTIAL CONTRACT NEGOTIATION.....	16
15.0 AGREEMENT TERMS AND CONDITIONS	16
16.0 COLLUSION.....	17
17.0 RIGHTS TO PERTINENT MATERIALS	17
18.0 PIGGYBACK CLAUSE.....	17
19.0 INSURANCE REQUIREMENTS.....	18
20.0 SAMPLE AGREEMENT SECTION	20
ATTACHMENT A AND SIGNATURE PAGE	
ATTACHMENT A: LOCAL BUSINESS DECLARATION FORM.....	22
SIGNATURE PAGE	24

SOLICITATION DETAILS SECTION

1.0 INTENT

- 1.1 The County of Monterey Housing and Community Development (HCD) Department, hereinafter referred to as “County,” is soliciting Request for Proposals (RFP) from qualified organization(s), hereinafter referred to as “CONTRACTOR,” to provide services relating to an update to the General Plan, specifically the Housing Element, Safety Element, and preparation of an Environmental Justice Element. The County is seeking professional consulting services to update the County’s Housing Element, Safety Element, and proposed Environmental Justice Element in a manner that is consistent with current State law.
- 1.2 The Housing Element update shall include related rezoning and all necessary environmental review as required under State law, in a manner consistent with the Regional Housing Needs Allocation 6th (RHNA 6) planning period (2023-2031). The Housing Element update shall run on a tight timeline and will require certification by California Department of Housing and Community Development (State HCD) by December 2023.
- 1.3 The Safety Element update and preparation of an Environmental Justice Element will also require County adoption and State certification, as appropriate.
- 1.4 This solicitation is intended for a single, exclusive AGREEMENT.

2.0 BACKGROUND

- 2.1 The County of Monterey is located on the Central Coast of California, approximately 120 miles south of San Francisco. The County borders Santa Cruz and San Benito Counties to the north and San Luis Obispo County to the south. The County is approximately 3,350 square miles.
- 2.2 The County of Monterey General Plan contains a total of eight (8) elements with goals, policies, and regulations that govern the long-term plan for the County. The County’s current General Plan was adopted October 26, 2010, by the County Board of Supervisors. The General Plan document can be found on the County’s website (<https://www.co.monterey.ca.us/government/departments-a-h/housing-community-development/planning-services/land-use-regulations/2010-general-plan>). The County’s current Housing Element is part of the General Plan and was adopted by the County on January 26, 2016, and certified by the California Department of Housing and Community Development (State HCD) on May 10, 2016. The current Housing Element can be viewed here: <https://www.co.monterey.ca.us/home/showpublisheddocument/23939/636276873490100000>
- 2.3 The **Housing Element** is an element required to be included in the County of Monterey General Plan. State law identifies the subjects that must be addressed in a Housing Element. These guidelines are identified in Article 10.6 of the State of California Government Code (Sections 65580 et. seq.). State law specifies that the Housing Element must assess housing needs and evaluate the current housing market in the County and then identify programs that will meet housing needs. The housing market evaluation includes a review of housing stock characteristics

as well as housing costs, household incomes, special needs households, availability of land and infrastructure and various other factors. Also included is the community's "Regional Housing Needs Allocation" (RHNA) which provides an estimate of the number of housing units that should be provided in the community to meet its share of new households in the region. In addition to this information, the Housing Element document must review and evaluate its past housing programs and consider this review in planning future housing strategies.

The County expects a RHNA of approximately 3,326 unit, compared to 1,551 during the 5th Housing Element Cycle, representing a 114% increase from the last planning cycle. To ensure an adequate inventory of viable sites, we anticipate the element update will necessitate rezoning in targeted areas. While a number of important housing issues will need to be considered and addressed through the update process, the most significant work effort is expected to be meeting RHNA numbers in the site inventory.

- 2.4 The **Safety Element** is one of the elements included in the adopted General Plan. The Safety Element combines the state mandated safety and noise elements. This element establishes policies and programs to protect the public from risks associated with seismic, geologic, flood, and wildfire hazards. The Safety Element shall be updated pursuant to Government Code 65302(g), which requires that local jurisdictions update the Safety Element to address flood hazard zone, fire hazards, and climate adaption and resilience strategies upon revisions of the Housing Element.
- 2.5 The **Environmental Justice Element** is not currently part of the adopted General Plan. The County is seeking to incorporate into the General Plan as a stand-alone element. The element shall be prepared pursuant to Government Code 65302(h), which requires that local jurisdictions prepare an Environmental Justice Element or related goals, policies, and objectives integrated into other elements, that identifies disadvantaged communities within the County. This includes identifying policies to reduce the unique or compounded health risks in environmental justice communities, prioritizing programs that address the needs of these communities, and promoting community engagement in decision-making processes.
- 2.6 The selected CONTRACTOR(S) will partner with County staff to explore, analyze and implement these approaches in addition to facilitating community engagement, working with our elected and appointed officials to present recommendations and gather feedback, and coordinating with State HCD to help ensure ultimate certification of the updated element.
- 2.7 This Request for Proposals (RFP #10832) is structured to award an Agreement to a qualified CONTRACTOR to perform the services listed within Section 5.0, Scope of Work.

3.0 CALENDAR OF EVENTS

- | | | |
|-----|--------------------------------|-------------------------------|
| 3.1 | Issue RFP | Thursday, April 28, 2022 |
| 3.2 | Deadline for Written Questions | 3:00 p.m., PST, May 12, 2022 |
| 3.3 | Proposal Submittal Deadline | 3:00 p.m., PST, June 10, 2022 |

- | | | |
|-----|-------------------------------------|-----------|
| 3.4 | Estimated Notification of Selection | July 2022 |
| 3.5 | Estimated Agreement Date | July 2022 |

This schedule is subject to change as necessary.

- 3.6 **FUTURE ADDENDA:** CONTRACTOR(s), who received notification of this solicitation by means other than through a County mailing, shall contact the person designated in the COUNTY POINT OF CONTACT herein to request to be added to the mailing list. Inclusion on the mailing list is the only way to ensure timely notification of any addenda and/or information that may be issued prior to the solicitation submittal date. **IT IS THE CONTRACTOR(S) SOLE RESPONSIBILITY TO ENSURE THAT THEY RECEIVE ANY AND ALL ADDENDA FOR THIS RFP** by either informing the County of their mailing information or by regularly checking the County's Solicitation Center web page at:
<https://www.co.monterey.ca.us/government/departments-a-h/administrative-office/contracts-purchasing/solicitation-center>. Addenda are posted on the website the day they are released.

4.0 COUNTY POINT OF CONTACT

- 4.1 Questions and correspondence regarding this solicitation shall be directed to:

Primary Contact: **Darby Marshall, Interim Housing Program Manager**
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901-4527
Phone: (831) 755-5227
Email: marshalld@co.monterey.ca.us

Secondary Contact: **Craig Spencer, Chief of Planning**
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901-4527
Phone: (831) 755-5233
Email: spencerc@co.monterey.ca.us

Copy: **Kathy Nielsen, Management Analyst II**
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901-4527
Phone: (831) 755-5892
Email: nielsenk@co.monterey.ca.us

- 4.2 All questions regarding this solicitation shall be submitted in writing (Email is acceptable and encouraged). Questions will be researched, and answers will be posted on County's Solicitation Center web page at <https://www.co.monterey.ca.us/government/departments-a-h/administrative-office/contracts-purchasing/solicitation-center> by deadline indicated in the **CALENDAR OF EVENTS** herein.
- 4.3 The deadline for submitting written questions regarding this solicitation is indicated in the **CALENDAR OF EVENTS** herein. Questions submitted after the deadline will not be answered.

- 4.4 Only answers to questions communicated by formal written addenda will be binding.
- 4.5 Prospective CONTRACTOR(s) shall not contact County officers or employees with questions or suggestions regarding this solicitation except through the primary contact person listed above. **Any unauthorized contact may be considered undue pressure and cause for disqualification of the CONTRACTOR(s).**

5.0 SCOPE OF WORK

- 5.1 Proposals must address the Tasks listed below, providing a description and timeline of how they would be accomplished. The timeline for the Housing Element must reflect the required State HCD Housing Element certification date of January 2023. Additional or optional tasks may be included, and creative approaches are welcome. The final scope of work will be subject to refinement and mutual agreement following the project's launch and further discussion.
- 5.2 The SCOPE OF WORK includes but is not limited to the following Tasks:

Task 1 – Project Management and Coordination

This task includes communication and coordination between the CONTRACTOR and County staff, including meetings, phone conferences, email exchanges, and other communications to ensure timely delivery and adoption of the County's updated **Housing, Safety** and preparation of an **Environmental Justice Element** (herein, General Plan Elements). The Housing Element shall take priority due to the State HCD update and certification deadline of January 2023. Proposal should identify the number of meetings anticipated and expectations for jurisdictional staff. Strategies or practices to ensure clear and timely communication and effective project coordination should be described. Strategies for ensuring coordination with State HCD over the course of the project should also be addressed, as needed.

Task 2 – Community Outreach and Engagement

CONTRACTOR shall develop a program that effectively reaches, educates and engages the community throughout the update of the General Plan Elements. This should include strategies to ensure broad inclusion, particularly of hard to reach groups and special needs populations, with special attention given to communicating information so it is accessible and easy to understand. Outreach is expected to begin early in the process and continue throughout for feedback on important topics such as draft ideas, site options, the draft updated General Plan Elements and environmental reviews. Please discuss options for virtual as well as in person meetings, depending on changing safety considerations. CONTRACTOR shall lead the engagement as well as a summary of the work. At a minimum outreach should consist of:

- Initial presentation to Board of Supervisors and Planning Commission
- Two community meetings
- One stakeholder focus group
- Online/virtual participation opportunities
- Specific outreach and engagement of environmental justice communities as defined by the Consultant and the County

Task 3 – Update to the Housing Element (Sixth Cycle)

Task 3.1 Housing and Special Housing Needs

Provide jurisdiction-specific graphs and write-ups with supporting data, including population, demographic, housing, market conditions and regional comparisons.

Task 3.2 Housing Constraints

CONTRACTOR shall identify potential and actual governmental and nongovernmental constraints for the preservation, protection, or production of housing across income levels within the County. Provide all cross-jurisdictional comparisons to support this task (e.g., comparison of fees and processing time). Additionally, provide write ups of typical countywide non-governmental constraints, including community opposition to housing, cost of construction, limited availability of land and other topics.

Task 3.3 Review of the existing Housing Element

CONTRACTOR shall review the current Housing Element and identify the County's success in accomplishing/implementing the identified goals, policies, and programs; and provide explanations and updates where goals, policies or programs are in progress, have been abandoned or have not proven effective.

Task 3.4 Sites Inventory

CONTRACTOR shall prepare the sites inventory section of the Housing Element, demonstrating how the County will satisfy its RHNA in each income category. This includes identifying safe assumptions, evaluating sites, and analyzing potential policy strategies to increase site capacity, demonstrating development viability (per State law), and inputting the information into State HCD's electronic form for submittal with the updated element. It is anticipated that this will be the most significant area of work for the update process and will need to start early to ensure adequate time for consideration of potential areas for rezoning or other changes to development standards needed to achieve the RHNA.

Task 3.5 Goals, Policies, Programs and Quantified Objectives

CONTRACTOR shall identify goals, policies, programs and quantified objectives to include in the Housing Element to ensure compliance with State law and effective response to the housing needs, constraints and key priorities identified through the update process. This task includes ensuring responsiveness to priorities articulated through the community engagement process as well as ensuring internal consistency with other elements of the General Plan. This task will include identification of other General Plan policy updates or revisions needed to ensure consistency.

Task 3.6 Rezoning [Optional Task]

Based on the sites analyses, CONTRACTOR shall work with County staff to identify potential areas for rezoning, if necessary. This must include consideration of the State requirement for maintaining an adequate housing sites inventory throughout the eight-year planning period.

Task 3.7 Draft Housing Element

CONTRACTOR shall prepare and submit an administrative draft Housing Element for County staff review. County staff will provide a comprehensive set of desired changes. County staff will provide final edits and will coordinate dates of public hearings.

- Administrative draft and draft housing element (Microsoft Word)
- PowerPoint

Task 4 – Update to the Safety Element

Task 4.1 Review of the existing Safety Element

Review and evaluate the current Safety Element to determine its compliance with State law.

Task 4.2 Provide Recommendations

Provide list of any corrections that must be made to text and/or exhibits in the Safety Element to bring it into compliance with State Law.

Task 4.3 Draft Safety Element Update

CONTRACTOR shall work with County staff to update the Safety Element to ensure consistency with other General Plan elements and other planning documents, and to ensure compliance with State law. This task is intended to focus the scope of work to update portions of the Safety Element, as necessary, for compliance with State law and consistency with other elements in the General Plan.

Task 5 – Preparation of an Environmental Justice Element

Task 5.1 Provide Recommendations

Provide recommendations for the format of the Environmental Justice Element.

Task 5.2 Draft/Prepare an Environmental Justice Element

CONTRACTOR shall work with County staff to draft Environment Justice Element and ensure it is aligned with other General Plan elements and planning documents. Prepare an Environmental Justice Element that complies with the goals, policies, and objectives of the County and State Law.

Task 6 –Public Hearings

CONTRACTOR shall coordinate with County staff on presenting the drafted General Plan Elements to the Planning Commission and Board of Supervisors at public hearings. Based on Commission and Board input, prepare a State HCD review draft and submit to State HCD for the mandated review.

- Minimum of five (5) public hearings

Task 7 – Environmental Analysis (CEQA Documentation)

CONTRACTOR shall prepare all required documents for California Environmental Quality Act (CEQA) review and submittal, including the Initial Study, Mitigated Negative Declaration or Environmental Impact Report and CEQA Determination. This should include public posting and noticing for comment. For budget purposes, consultant may list different prices depending on the level of analysis that may ultimately be needed.

Task 8 – Final Draft Hearings, Final Adoption and Certification

CONTRACTOR shall work closely with State HCD and County staff to respond to any comments, and produce a final draft housing element for adoption. Present to the Planning Commission and Board of Supervisors at public hearings. Prepare the final General Plan Elements, including any changes from the public hearings, and submit to State HCD for final certification as well as the water/sewer district and the California Office of Planning and Research.

- Draft final and final General Plan Elements (Microsoft Word and PDF)
- PowerPoint
- Five (5) public hearings

6.0 CONTRACT TERM

- 6.1 A quick turnaround time is desired in the completion of the Scope of Services. The initial term of the Agreement will be for a period of two years with the option to extend the Agreement if needed.
- 6.1.1 County is not required to state a reason if it elects not to renew.
- 6.2 If the Agreement includes options for renewal or extension, CONTRACTOR(s) must commence negotiations for any desired rate changes a minimum of ninety (90) days prior to the expiration of the Agreement.
- 6.2.1 Both parties shall agree upon rate changes in writing.
- 6.3 The Agreement shall contain a clause that provides that County reserves the right to cancel the Agreement, or any extension of the Agreement, without cause, with a thirty (30) day written notice, or immediately with cause.

7.0 LICENSING REQUIREMENTS

- 7.1 CONTRACTOR is required to ensure that all services, costs, and materials must, at minimum, meet the specifications for State of California and CAL/OSHA regulations, as applicable.
- 7.2 CONTRACTOR is to ensure that the insurance and any required licenses under both state and local jurisdictions are current during the full term of the Agreement.
- 7.3 Contractor shall list any relevant licenses and educational degrees for personnel assigned to perform tasks under the Agreement.
- 7.3.1 In the event the work performed under the Agreement involves access to restricted areas of County facilities, a California licensed Investigator must perform the required State level criminal background check(s) which must then be submitted to the County prior to the personnel being allowed to work within such County facilities.

- 7.3.2 CONTRACTOR is responsible for the cost of the State level criminal background check(s).

8.0 PROPOSAL PACKAGE REQUIREMENTS

8.1 Content and Layout:

- 8.1.1 CONTRACTOR should provide the information as requested and as applicable to the proposed goods and/or services. The proposal or qualifications package shall be organized as per the table below; headings and section numbering utilized in the proposal or qualifications package shall be the same as those identified in the table. Proposal or qualifications packages shall include, at a minimum, but not limited to, the following information in the format indicated:

<u>Proposal Layout</u> Organize and Number Sections as Follows:	
Section 1	Cover Letter (Including Firm and Contact Information)
	Litigation History
	RFP Signature Page
	Receipt of Signed Addenda (If any)
	Table of Contents
Section 2	Proposed Approach for Meeting the Services Described in Section 5.0, Scope of Work
Section 3	Key Staff, Project Experience & References
Section 4	Cost Estimate and Fee Schedule (Submit in a Separate Envelope)
Section 5	Pre-Qualifications/Licensing Requirements
Section 6	Environmentally Friendly Practices
Section 7	Local Business Declaration Form (If applicable, submit Attachment A)
Section 8	Exceptions
Section 9	Appendix

Section 1 – Requirements:

Cover Letter: All proposals must be accompanied by a cover letter not exceeding two (2) pages and should provide firm information and contact information as follows:

- **Contact Info:** The name, address, telephone number, email, and fax number of CONTRACTOR's primary contact person during the solicitation process through to potential contract award.
- **Firm Info:** Description of the type of organization (e.g., corporation, partnership, including joint venture teams and subcontractors) and number of years in existence. Indicate any planned or anticipated changes in business organization or operations, such as dissolution, winding-up, merger, etc., that may bear on ability to complete services in accordance with sample agreements.

Litigation History: Provide a description of litigation to which your firm has been a party to in the past five (5) years. Please include the following details:

- Name of Case
- Case Number
- Date Filed
- Court in which Filed
- Judgment or Result

Signed RFP Signature Page and Signed Addenda (if any addenda were released for this solicitation). Proposal submitted without this page will be deemed non-responsive. All signatures must be manual and in BLUE ink. All prices and notations must be typed or written in BLUE ink. Errors may be crossed out and corrections printed in BLUE ink or typed adjacent and must be initialed in BLUE ink by the person signing the proposal.

Table of Contents

Section 2 – Proposed Project Management Approach for Meeting the Services Requested by County described in Section 5.0 of this RFP, including:

- Approach and methods to completing the work described in Section 5.0 of this RFP;
- Approach to working with County staff and County community members;
- Identify sub-consultants, if any, your firm proposes to use to provide the services as outlined in this RFP;
- Describe your schedule management approach to ensure deliverables are completed in a timely manner;
- Provide a schedule and include deadlines for each deliverable;
- Describe your cost management approach for tight budgets and;
- Any other project management or implementation strategies or techniques that CONTRACTOR intends to employ in carrying out the services requested.

Section 3 – Key Staff, Project Experience & References:

Organizational Chart of Proposed Team: CONTRACTOR shall attach firm's organizational chart. The chart should show the names and roles of all key personnel and the firm they are associated with if they are a sub-contractor. The chart should provide a clear picture of the working relationship between all key personnel on the proposed team.

Resume(s) of Key Staff: CONTRACTOR shall provide resume(s) for each key person on the proposed team.

Experience & References: CONTRACTOR shall describe its demonstrated capability, including length of time it has provided the services requested in this solicitation.

CONTRACTOR shall provide a minimum of three (3) references demonstrating relevant experience for which it provided similar services (preferably in the State of California State and

for a local government agency) to the scope of work described herein within the last five (5) years. CONTRACTOR shall include relevant work experience demonstrating knowledge of Housing Element component of a local jurisdiction's General Plan. Information provided should demonstrate CONTRACTOR had the capacity and expertise to meet previous customer's needs, and should include at a minimum:

- Client name and contact information;
- Project name (if applicable); and
- Project description, implementation details, and level of success.

Section 4 – Cost Estimate and Fee Schedule (Submit in a separate envelope):

Cost Estimate: CONTRACTOR shall provide a cost estimate for the service described in Section 5.0 of this RFP. Cost of deliverables and labor shall be fair and reasonable.

Fee Schedule: CONTRACTOR shall submit a fee schedule, including staff positions/titles, hourly rates for the first two years of the initial term of the Agreement, list of reimbursable items, and estimated costs. All applicable tax shall be included as a separate line item.

Section 5 – Pre-Qualifications/Licensing Requirements:

Pre-Qualifications: CONTRACTOR must acknowledge in writing that it meets all the pre-qualifications, insurance, and licensing requirements as set forth in the County of Monterey Professional Services Agreement, which may be viewed on the link provided on Section 21, Sample Agreement Section of this RFP.

Licensing Requirements: CONTRACTOR must acknowledge, in writing, its compliance with all laws governing the services as described within this RFP #10832 and that it meets all governmental licensing requirements.

CONTRACTOR shall possess all permits, licenses, and professional credentials necessary to supply products, and the ability to deploy devices and perform services as specified under RFP #10832.

Violations: CONTRACTOR shall submit copies of all notices of violations, corrective action notices, enforcement actions or orders, warning notices, writings, or other forms of permit violation/non-compliance documentation (such as those issued by CAL-OSHA) received by CONTRACTOR, or any business organization owned or operated by CONTRACTOR, or any business organization which owns or operates as CONTRACTOR, from any public agency for the last five (5) years.

Section 6 – Environmentally Friendly Practices:

CONTRACTOR shall summarize all environmentally friendly practices to which it adheres while doing business as relevant to the County's Climate-Friendly Purchasing Policy at: <https://www.co.monterey.ca.us/home/showpublisheddocument/22305/636241459023900000>.

CONTRACTOR shall indicate whether it is a ‘Green Certified’ business and state which governing authority administered the certification.

Section 7 – Local Business Declaration Form (Submit Attachment A, if applicable):

CONTRACTOR shall declare whether it is a Local Business in **ATTACHMENT A – LOCAL BUSINESS DECLARATION FORM** and in accordance with the County’s Local Business Preference Policy at: <https://www.co.monterey.ca.us/home/showdocument?id=22313>.

Section 8 – Exceptions:

Submit any and all exceptions to this solicitation on separate pages, and clearly identify at the top of each page with “EXCEPTION TO COUNTY RFP #10832.” Each exception shall reference the page number and section number, as appropriate. CONTRACTOR should note that the submittal of an exception does not obligate County to revise the terms of the RFP or Agreement.

Section 9 – Appendix:

Appendix: CONTRACTOR may provide any additional information that it believes to be applicable to this proposal package and include such information in an Appendix section.

8.2 **ADDITIONAL REQUIREMENTS:** To be considered “responsive,” submitted proposals shall adhere to the following:

- 8.2.1 Four (4) sets of the proposal package (one [1] original proposal marked “Original” plus three [3] copies) shall be submitted in response to this solicitation. Each copy shall include a cover indicating the submitting company name and reference to “RFP #10832”. In addition, submit one (1) electronic version of the entire proposal package on a USB memory stick. Additional copies may be requested by County at its discretion.
- 8.2.2 Proposal packages shall be prepared on 8 ½ x 11 paper, preferably bound with front and back covers. Foldout charts, tables, spreadsheets, brochures, pamphlets, and other pertinent information or work product examples may be included as Appendices.
- 8.2.3 Reproductions of the Monterey County Seal shall not be used in any documents submitted in response to this solicitation.
- 8.2.4 CONTRACTOR shall not use white-out or similar correction products to make late changes to their proposal or qualifications package. CONTRACTOR may make corrections and late changes through line out and initial in BLUE ink any item which no longer is applicable or accurate.
- 8.2.5 To validate your proposal package, **submit the SIGNATURE PAGE** (contained herein) **with your proposal**. Proposals packages submitted without that page will be deemed non-responsive. Proposal signature must be manual, in BLUE ink, and included with the original copy of the proposal. Photocopies of the Signature Page may be inserted into the

remaining three (3) proposal copies. All prices and notations must be typed or written in BLUE ink in the original proposal copy as well. Errors may be crossed out and corrections printed in BLUE ink or typed adjacent and must be initialed in BLUE ink by the person signing the proposal.

- 8.3 **CONFIDENTIAL OR PROPRIETARY CONTENT:** All proposals become the property of the County, which is a public agency subject to disclosure requirements of the California Public Records Act (“CPRA”). If Contractor proprietary information is contained in documents submitted to County, and Contractor claims that such information falls within one or more CPRA exemptions, Contractor must clearly mark such information “CONFIDENTIAL AND PROPRIETARY,” and identify the specific lines containing the information. In the event of a request for such information, the County will make best efforts to provide notice to Contractor prior to such disclosure. If Contractor contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Monterey County before the County’s deadline for responding to the CPRA request. If Contractor fails to obtain such remedy within County’s deadline for responding to the CPRA request, County may disclose the requested information. Contractor further agrees that it shall defend, indemnify, and hold County harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and attorney’s fees) that may result from denial by County of a CPRA request for information arising from any representation, or any action (or inaction), by the Contractor.

9.0 SELECTION CRITERIA

- 9.1 The selection of CONTRACTOR and subsequent Agreement award(s) will be based on the criteria contained in this solicitation, as demonstrated in the submitted proposal. CONTRACTOR should submit sufficient information for County to easily evaluate proposals with respect to the selection criteria. The absence of required information may cause the proposal to be deemed non-responsive and may be cause for rejection.
- 9.2 Selection criteria include, but are not limited to, the following:
- 9.2.1 CONTRACTOR demonstrated understanding of the services required as described within this RFP #10832, quality, completeness, and thoroughness of the proposal.
 - 9.2.2 CONTRACTOR demonstrated experience with similar projects involving municipalities and other public agencies.
 - 9.2.3 CONTRACTOR demonstrated previous experience in streamline updates of housing elements.
 - 9.2.4 CONTRACTOR demonstrated ability to manage and coordinate the project in a timely manner.
 - 9.2.5 Ability of CONTRACTOR to provide services at competitive rates.

9.2.6 CONTRACTOR's compliance with all County requirements, including insurance and indemnification requirements, as detailed within RFP #10832 and in the Sample Agreement.

9.2.7 CONTRACTOR's sustained industry reputation for customer satisfaction in quality of service, in resolving service problems, and providing customer support as necessary.

9.3 The selection criteria include the following: **(100 points total)**

CRITERIA	POINT VALUE
Understanding of services and work required	25
Experience of the firm performing similar projects under contract to public agencies	25
Professional qualifications of staff	20
Quality and thoroughness of the qualification package	10
Familiarity with local and State Housing Element policies	10
Pricing	5
Adherence to County's Climate-Friendly Purchasing Policy	5
TOTAL	100

9.4 Agreement award will not be based on cost alone.

9.5 The award resulting from this RFP will be made to CONTRACTOR that submit a response that, in the sole opinion of County, best serves the overall interest of County.

9.6 The award(s) made from this RFP may be subject to approval by County Board of Supervisors.

10.0 SUBMITTAL INSTRUCTIONS & CONDITIONS

10.1 Submittal Identification Requirements: ALL SUBMITTALS MAILED OR DELIVERED CONTAINING PROPOSAL OR QUALIFICATIONS OR QUOTATION PACKAGES MUST BE SEALED AND BEAR ON THE OUTSIDE, PROMINENTLY DISPLAYED IN THE LOWER LEFT CORNER THE SOLICITATION NUMBER: **RFP #10832** and **CONTRACTOR's COMPANY NAME**.

10.2 Mailing Address: Proposal packages shall be mailed to County at the mailing address indicated on the **Signature Page** of this solicitation.

10.3 Due Date: Proposal or qualifications packages must be received by County ON OR BEFORE the time and date specified, at the location and to the person specified on the **Signature Page** of this

solicitation. It is the sole responsibility of CONTRACTOR to ensure that the proposal or qualifications package is received at or before the specified time. Postmarks and facsimiles are not acceptable. Proposals received after the deadline shall be rejected and returned unopened.

- 10.4 Shipping Costs: Unless stated otherwise, the Free on Board (FOB) for receivables shall be destination. Charges for transportation, containers, packaging and other related shipping costs shall be borne by the shipper.
- 10.5 Acceptance: Proposals are subject to acceptance at any time within ninety (90) days after opening. County reserves the right to reject any and all proposal or qualifications packages, or part of any proposal or qualifications package, to postpone the scheduled deadline date(s), to make an award in its own best interest, and to waive any informalities or technicalities that do not significantly affect or alter the substance of an otherwise responsible proposal or qualifications package and that would not affect a CONTRACTOR's ability to perform the work adequately as specified.
- 10.6 Ownership: All submittals in response to this solicitation become the property of County. If a CONTRACTOR does not wish to submit a proposal or qualifications package but wishes to acknowledge the receipt of the request, the reply envelope shall be marked "No Bid".
- 10.7 Compliance: Proposal or qualifications packages that do not follow the format, content and submittal requirements as described herein, or fail to provide the required documentation, may receive lower evaluation scores or be deemed non-responsive.
- 10.8 CAL-OSHA: The items proposed shall conform to all applicable requirements of the California Occupational Safety and Health Administration Act of 1973 (CAL-OSHA).

11.0 PRICING

- 11.1 CONTRACTOR(s) will submit a **Cost Estimate and Fee Schedule** for the provision of services as outlined within this RFP.
- 11.2 CONTRACTOR prices stated in the **Cost Estimate and Fee Schedule** shall be effective from the date the proposal is submitted to the day the Agreement is awarded and through the initial term of the Agreement.

12.0 PREFERENCE FOR LOCAL CONTRACTORS

- 12.1 General Requirements: Each local supplier funded in whole or in part by County funds, or funds which County expends or administers, shall be eligible for a local preference as provided in this section.
- 12.2 The selection process for this RFP is qualifications based; 5% shall be added to the overall scoring evaluation for local bidders.

- 12.3 Link to County's Local Preference Policy:
<https://www.co.monterey.ca.us/home/showdocument?id=22313>

13.0 CONTRACT AWARD

- 13.1 No Guaranteed Value: County does not guarantee a minimum or maximum dollar value for any Agreement resulting from this solicitation.
- 13.2 Board of Supervisors: The award(s) made from this solicitation may be subject to approval by County Board of Supervisors.
- 13.3 Interview: County reserves the right to interview selected CONTRACTOR(s) before an Agreement is awarded. The costs of attending any interview are the CONTRACTOR's responsibility.
- 13.4 Incurred Costs: County is not liable for any costs incurred by CONTRACTOR in response to this solicitation.
- 13.5 Notification: All CONTRACTORS who have submitted a proposal package will be notified of the final decision as soon as it has been determined.
- 13.6 In County's Best Interest: The award(s) resulting from this solicitation will be made to CONTRACTOR(s) that submit(s) a response that, in the sole opinion of County, best serves the overall interest of County.

14.0 SEQUENTIAL CONTRACT NEGOTIATION

County will pursue contract negotiations with CONTRACTOR who submit(s) the best proposal or is deemed the most qualified in the sole opinion of County, and which is in accordance with the criteria as described within this solicitation. If the contract negotiations are unsuccessful, in the opinion of either County or CONTRACTOR, County may pursue contract negotiations with the entity that submitted a proposal which County deems to be the next best qualified to provide the services, or County may issue a new solicitation or take any other action which it deems to be in its best interest.

15.0 AGREEMENT TERMS AND CONDITIONS

CONTRACTOR selected through the solicitation process will be expected to execute a formal Agreement with County for the provision of the requested service. The Agreement shall be written by County in a standard format approved by the Office of the County Counsel-Risk Manager, similar to the County of Monterey Professional Services Agreement referenced in Section 21.0 "**SAMPLE AGREEMENT SECTION**" below. Submission of a signed bid/proposal and the **SIGNATURE PAGE** will be interpreted to mean CONTRACTOR HAS AGREED TO ALL THE TERMS AND CONDITIONS set forth in the pages of this solicitation and the standard provisions included in Section

20.0. County may but is not required to consider including language from the CONTRACTOR's proposed Agreement, and any such submission shall be included in the EXCEPTIONS SECTION of CONTRACTOR's proposal.

16.0 COLLUSION

CONTRACTOR shall not conspire, attempt to conspire, or commit any other act of collusion with any other interested party for the purpose of secretly, or otherwise, establishing an understanding regarding rates or conditions to the solicitation that would bring about any unfair conditions.

17.0 RIGHTS TO PERTINENT MATERIALS

All responses, inquiries, and correspondence related to this solicitation and all reports, charts, displays, schedules, exhibits, and other documentation produced by CONTRACTOR that are submitted as part of the submittal will become the property of County when received by County and may be considered public information under applicable law. Any proprietary information in the submittal must be identified as such and marked "CONFIDENTIAL INFORMATION" or "PROPRIETARY INFORMATION", in conformity with the specific requirements set forth in Section 8.3, above. County will not disclose proprietary information to the public, unless required by law; however, County cannot guarantee that such information will be held confidential. As a California government entity, County is subject to the California Public Records Act and other public transparency laws and, as such, cannot guarantee the confidentiality of information marked confidential or proprietary. County will respond to requests for disclosure of records related to this solicitation in accord with applicable law on disclosure requirements and exemptions to disclosure.

18.0 PIGGYBACK CLAUSE

CONTRACTOR shall indicate below if CONTRACTOR agrees to extend the same prices, terms and conditions of their proposal to other public agencies that have delivery locations within the State of California limits: _____ Yes _____ No. CONTRACTOR's response to this question will not be considered in award of the Agreement resulting from this solicitation. If and when CONTRACTOR extends the prices, terms, and conditions of their proposal to other public agencies, any resulting agreement shall be between CONTRACTOR and the other public agencies and County shall bear no responsibility or liability for any agreements between CONTRACTOR and the other public agencies.

19.0 INSURANCE REQUIREMENTS

20.1 Evidence of Coverage:

20.1.1 Prior to commencement of Agreement, 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, CONTRACTOR upon request shall provide a certified copy of the policy or policies.

20.1.2 This verification of coverage shall be sent to County Contracts/Purchasing Division, unless otherwise directed. CONTRACTOR shall not receive a “Notice to Proceed” with the work under Agreement until it has obtained all insurance required and such insurance has been approved by County. This approval of insurance shall neither relieve nor decrease the liability of CONTRACTOR.

20.2 Qualifying Insurers: All coverages, 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 County Contracts/Purchasing Officer.

20.3 Insurance Coverage Requirements:

20.3.1 Without limiting CONTRACTOR’s duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of Agreement a policy or policies of insurance with the following minimum limits of liability:

- (i) Commercial General Liability Insurance, including, but not limited to, premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
- (ii) Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles used in providing services under Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
- (iii) Workers’ Compensation Insurance, if CONTRACTOR employs others in the performance of 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.
- (iv) 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 while rendering professional services. If professional liability insurance is written on a “claims-made” basis rather than an occurrence basis, CONTRACTOR shall, upon the expiration or earlier termination of Agreement, obtain extended reporting coverage (“tail coverage”) with the same liability limits. Any such tail coverage shall continue for at least three (3) years following the expiration or earlier termination of Agreement.

20.4 Other Insurance Requirements:

- 20.4.1 All insurance required by Agreement shall be with a company acceptable to County and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by 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 (3) years following the date CONTRACTOR completes its performance of services under Agreement.
- 20.4.2 Each liability policy shall provide that County shall be given notice, in writing, at least thirty (30) 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 Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.
- 20.4.3 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.
- 20.4.4 Prior to the execution of Agreement by County, CONTRACTOR shall file certificates of insurance with County Contract Administrator and County Contracts/Purchasing Division, showing that CONTRACTOR has in effect the insurance required by Agreement. CONTRACTOR shall file a new or amended certificate of insurance within five (5) 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 Agreement, which shall continue in full force and effect.
- 20.4.5 CONTRACTOR shall always during the term of Agreement maintain in force the insurance coverage required under Agreement and shall send, without demand by County,

annual certificates to County Contract Administrator and County Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five (5) 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 Agreement, which entitles County, at its sole discretion, to terminate Agreement immediately.

20.0 SAMPLE AGREEMENT SECTION

The COUNTY OF MONTEREY Professional Services Agreement with all terms and conditions (which are hereby incorporated by reference as though set forth entirely herein) may be viewed at the following links for respective project amounts:

Sample Professional Services Agreement:

[http://www2.co.monterey.ca.us/cao/pdfs/PSA_DesignProf_over\\$100k.pdf](http://www2.co.monterey.ca.us/cao/pdfs/PSA_DesignProf_over$100k.pdf)

This area intentionally left blank.

ATTACHMENT A AND SIGNATURE PAGE

ATTACHMENT A: LOCAL BUSINESS DECLARATION FORM

COUNTY OF MONTEREY LOCAL BUSINESS DECLARATION FORM

If a business entity is claiming to be a "Local Vendor" as defined by the "Monterey County Local Preference Policy," adopted by the Monterey County Board of Supervisors on August 29, 2012, it must certify it meets the definition of "Local Vendor" as defined and in accordance to the adopted policy. Any business entity claiming to be a local business as defined by the policy, shall so certify, in writing herein, that it meets all of the criteria listed within the policy, which can be accessed online at the following link: <https://www.co.monterey.ca.us/home/showdocument?id=22313>.

County shall not be responsible or required to verify the accuracy or any such certifications and shall have sole discretion to determine if a bidder meets the definition of "local vendor" as provided herein.

Any business which falsely claims a preference pursuant to Monterey County Local Preference Policy shall be ineligible to bid on County purchases or contracts for a period of three (3) years from the date of discovery of the false certification(s).

Any business eligible for the local preference who desires to have the preference applied during the award selection process shall return this completed Local Business Preference Declaration form with its proposal or qualifications package response. Upon request, bidder agrees to provide additional information to substantiate this certification.

Select that which is applicable to your business entity (at least one (1) selection in order for a business to be considered local):

- ☐ It either owns, leases, rents, or otherwise occupies a fixed office or other commercial building, or portion thereof, having a street address within the Area. Vendor possesses a valid and verifiable business license, if required, issued by a city within the Area or by one (1) of the three (3) counties within the Area when the address is located in an unincorporated area within one (1) of the three (3) counties as defined as "Area"; and
- ☐ It employs at least one (1) full time employee within the "Area," or if the business has no employees, the business shall be at least fifty percent (50%) owned by one (1) or more persons whose primary residence(s) is located within the "Area"; and
- ☐ Its business has been in existence, in its current name, within the "Area" for at least two (2) years immediately prior to the issuance of either a request for proposals or request for qualifications or request for quotations for the County; and
- ☐ It is a newly established business which is owned by an individual(s) formerly employed by a Local Business for at least two (2) years.

As per the policy: "**Area**" shall mean Monterey County, San Benito County, and Santa Cruz County.

Note: If applicable your organization must possess a valid resale license from the State Franchise Tax Board showing its local address within the “Area” and evidencing that payment of the local share of the sales tax goes to either a city within the “Area” or to one (1) of the three (3) counties within the defined “Area.”

On behalf of my business entity (i.e., organization) I certify under penalty of perjury that I have both read and confirm that my business entity meets the requirements as outlined within the County’s Local Preference Policy for the procurement in question.

Business Legal Name (and Db a name if any): _____

Business Address: _____

City: _____ ***State:*** _____ ***Zip Code:*** _____

Signature of Authorized Representative: _____ ***Date:*** _____

Title of Authorized Representative: _____

Telephone Number: (____) _____ E-Mail: _____

This form must be submitted within a bidder’s proposal package for the County to apply the applicable local preference.

Bidders who do not qualify as a local business as per the policy should not submit this form.

– End of Attachment A –

SIGNATURE PAGE

COUNTY OF MONTEREY
HOUSING AND COMMUNITY DEVELOPMENT

RFP# **10832**
ISSUE DATE: April 28, 2022



RFP TITLE: Update to General Plan Housing and Safety Elements and Preparation of an Environmental Justice Element

PROPOSALS ARE DUE TO HCD BY
3:00 P.M., LOCAL TIME, ON JUNE 10, 2022

MAILING ADDRESS:
COUNTY OF MONTEREY
HOUSING AND COMMUNITY DEVELOPMENT (HCD)
1441 SCHILLING PLACE, SOUTH 2nd FLOOR
SALINAS, CA 93901-4527

QUESTIONS ABOUT THIS RFP SHOULD BE DIRECTED TO:

Darby Marshall, marshalld@co.monterey.ca.us (831) 755-5391
Craig Spencer, spencerc@co.monterey.ca.us (831) 755-5233
Copy to: Kathy Nielsen, nielsenk@co.monterey.ca.us (831) 755-4832

CONTRACTOR MUST INCLUDE THE FOLLOWING IN EACH PROPOSAL (one original plus four copies and one electronic):

- Proposal Package (as required by this RFP)

☐

ALL REQUIRED CONTENT AS DEFINED PER SECTION 8.1 HEREIN

This Signature Page must be included with your submittal in order to validate your proposal.

Proposals submitted without this page will be deemed non-responsive.

☐

CHECK HERE IF YOU HAVE ANY EXCEPTIONS TO THIS SOLICITATION.

CONTRACTOR MUST COMPLETE THE FOLLOWING TO VALIDATE PROPOSAL

I hereby agree to furnish the articles and/or services stipulated in my proposal at the price quoted, subject to the instructions and conditions in the RFP package. I further attest that I am an official officer representing my firm and authorized with signatory authority to present this proposal package.

Company Name: _____ Date: _____

Signature: _____ Printed Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Phone: (____) _____ Fax: (____) _____

E-Mail: _____

License No. (if applicable): _____

License Classification (if applicable): _____

This page intentionally left blank



Monterey County

Item No.41

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-509

September 27, 2022

Introduced: 9/14/2022

Current Status: Housing & Community
Development - Consent

Version: 1

Matter Type: BoS Agreement

- a. Approve Amendment No.7 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers (Whitson) to include additional services associated with the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, to increase the not-to-exceed amount by \$310,139, for a total amount not to exceed \$2,202,228; and
- b. Authorize the Housing and Community Development Director to execute Amendment No. 7 to Professional Services Agreement No. A-12775 with Whitson, and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amount by more than ten percent (10%) subject to approval by County Counsel.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve Amendment No.7 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers (Whitson) to include additional services associated with the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, to increase the not-to-exceed amount by \$310,139, for a total amount not to exceed \$2,202,228; and
- b. Authorize the Housing and Community Development Director to execute Amendment No. 7 to Professional Services Agreement No. A-12775 with Whitson, and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amount by more than ten percent (10%) subject to approval by County Counsel.

SUMMARY/DISCUSSION:

The Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (Project) is a comprehensive effort to improve flood control and restore native riparian habitat, floodplain habitat, and hydrologic function to a portion of the lower floodplain along the Carmel River. Key aspects of the project are to: 1) Create notches in the levees along the south bank of the lower Carmel River, 2) Restore the south lower Carmel River floodplain, and 3) Build a causeway under Highway 1, connecting the south lower Carmel River Floodplain with the south arm of the Carmel Lagoon. The CRFREE Project is currently in the final design, permitting, and right of way coordination phase, following the June 2021 Project approval. Initial floodplain grading and restoration construction on the east side of Highway 1 is scheduled to begin at the end of calendar year 2022.

In the process of completing the CRFREE All Party Construction Phase MOU (Board approval June 21, 2022), the California Department of Parks and Recreation ('State Parks') notified the County that the approved mitigation measures to raise historic buildings on State Parks property is not consistent with State Parks policies, and the preferred approach is to construct a berm to protect buildings from flood impacts. Approval of this Amendment No. 7 will add Task 9 to PSA No. A-13085 with Whitson to coordinate on the development of a concept plan for an alternative to raising historic structures known as the 'Barn Complex' on State Parks land. If the State Parks preferred approach of a berm is selected for implementation, Whitson will further develop the berm design and incorporate it into floodplain restoration construction design documents. Amendment No. 7 also adds Task 10 for bid support services and Task 11 for construction phase support services.

On April 14, 2016, the Board of Supervisors approved Professional Service Agreement (PSA) A-13085 with Whitson and Associates, Inc. dba Whitson Engineers (Whitson). An update in scope and budget to the Whitson PSA is necessary to continue work on the CRFREE Project during the initial restoration phase construction. The proposed Amendment No. 7 to the PSA will add Tasks 9, 10, and 11. If approved, Amendment No. 7 will increase the not-to-exceed amount of \$1,892,089 by \$310,139, for a total amount not to exceed of \$2,202,228. Attachment A provides a summary of the PSAs with DDA and Whitson.

OTHER AGENCY INVOLVEMENT:

Big Sur Land Trust (BSLT) is a co-sponsor for the CRFREE Project. BSLT, California Department of State Parks and Recreation (State Parks), and Monterey Peninsula Regional Parks District (MPRPD) are property owners within the Project area. Through a cooperative agreement with Caltrans, the County of Monterey is acting as the Lead Agency under the California Environmental Quality Act for the Project.

ENVIRONMENTAL REVIEW

Environmental review is complete for the CRFREE Project. The Project Environmental Impact Report (EIR) was certified by the Monterey County Board of Supervisors in a public hearing on January 20, 2020, and the Project was approved June 15, 2021. Federal environmental review was completed April 23, 2021, when Caltrans, as lead federal agency for the causeway portion of the Project, issued a finding of no significant impact (FONSI), agreeing with the United States Fish and Wildlife Service, as lead federal agency for the floodplain restoration portion of the project, who issued a FONSI on October 30, 2020.

FINANCING:

CRFREE is entirely grant funded. Costs associated with Whitson will be reimbursed from the Department of Water Resources (DWR) Flood Corridor grant (4600010665), and the DWR Coastal Watershed Flood Risk Reduction Grant (4600014577). Quarterly reimbursement requests will be submitted to minimize cash flow impacts. The DWR Flood Corridor Program Grant has \$462,080 available for Construction and Design support, and the DWR Coastal Watershed Flood Risk Reduction Grant has \$155,612 available for Construction support. CRFREE is budgeted in Fund 404, Fund Unit 8546 Appropriation Unit PFP057 under the purview of Public Works Facilities and Parks. There is no impact to the General Fund as a result of this recommendation. Staff time is included in the FY2022-23 HCD Appropriations Unit HCD001, Unit 8542.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

If approved, this action supports the Board of Supervisors' Strategic Initiatives for Administration and Infrastructure. The Project will provide sustainable physical infrastructure and associated flood risk reduction and habitat benefits to promote the safety of area residents and visitors.

☐ Economic Development
☒ Administration
☐ Health & Human Services
☒ Infrastructure
☐ Public Safety

Prepared by: Shandy Carroll, Management Analyst III, (831) 784-5643

Approved by: Melanie Beretti, AICP, Principal Planner

Approved by: Erik V. Lundquist, AICP, HCD Director

The following attachments are on file with the Clerk of the Board:

Attachment A - Summary of DDA and Whitson PSAs

Attachment B - Amendment No. 7 to Whitson PSA

Attachment C - Amendment No. 6 to Whitson PSA

Attachment D - Amendment No. 5 to Whitson PSA

Attachment E - Amendment No. 4 to Whitson PSA

Attachment F - Amendment No. 3 to Whitson PSA

Attachment G - Amendment No. 2 to Whitson PSA

Attachment H - Amendment No. 1 to Whitson PSA

Attachment I - Whitson PSA



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 22-509

September 27, 2022

Introduced: 9/14/2022

Current Status: Housing & Community
Development - Consent

Version: 1

Matter Type: BoS Agreement

- a. Approve Amendment No.7 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers (Whitson) to include additional services associated with the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, to increase the not-to-exceed amount by \$310,139, for a total amount not to exceed \$2,202,228; and
- b. Authorize the Housing and Community Development Director to execute Amendment No. 7 to Professional Services Agreement No. A-12775 with Whitson, and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amount by more than ten percent (10%) subject to approval by County Counsel.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve Amendment No.7 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers (Whitson) to include additional services associated with the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, to increase the not-to-exceed amount by \$310,139, for a total amount not to exceed \$2,202,228; and
- b. Authorize the Housing and Community Development Director to execute Amendment No. 7 to Professional Services Agreement No. A-12775 with Whitson, and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amount by more than ten percent (10%) subject to approval by County Counsel.

SUMMARY/DISCUSSION:

The Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (Project) is a comprehensive effort to improve flood control and restore native riparian habitat, floodplain habitat, and hydrologic function to a portion of the lower floodplain along the Carmel River. Key aspects of the project are to: 1) Create notches in the levees along the south bank of the lower Carmel River, 2) Restore the south lower Carmel River floodplain, and 3) Build a causeway under Highway 1, connecting the south lower Carmel River Floodplain with the south arm of the Carmel Lagoon. The CRFREE Project is currently in the final design, permitting, and right of way coordination phase, following the June 2021 Project approval. Initial floodplain grading and restoration construction on the east side of Highway 1 is scheduled to begin at the end of calendar year 2022.

In the process of completing the CRFREE All Party Construction Phase MOU (Board approval June 21, 2022), the California Department of Parks and Recreation ('State Parks') notified the County that the approved mitigation measures to raise historic buildings on State Parks property is not consistent with State Parks policies, and the preferred approach is to construct a berm to protect buildings from flood impacts. Approval of this Amendment No. 7 will add Task 9 to PSA No. A-13085 with Whitson to coordinate on the development of a concept plan for an alternative to raising historic structures known as the 'Barn Complex' on State Parks land. If the State Parks preferred approach of a berm is selected for implementation, Whitson will further develop the berm design and incorporate it into floodplain restoration construction design documents. Amendment No. 7 also adds Task 10 for bid support services and Task 11 for construction phase support services.

On April 14, 2016, the Board of Supervisors approved Professional Service Agreement (PSA) A-13085 with Whitson and Associates, Inc. dba Whitson Engineers (Whitson). An update in scope and budget to the Whitson PSA is necessary to continue work on the CRFREE Project during the initial restoration phase construction. The proposed Amendment No. 7 to the PSA will add Tasks 9, 10, and 11. If approved, Amendment No. 7 will increase the not-to-exceed amount of \$1,892,089 by \$310,139, for a total amount not to exceed of \$2,202,228. Attachment A provides a summary of the PSAs with DDA and Whitson.

OTHER AGENCY INVOLVEMENT:

Big Sur Land Trust (BSLT) is a co-sponsor for the CRFREE Project. BSLT, California Department of State Parks and Recreation (State Parks), and Monterey Peninsula Regional Parks District (MPRPD) are property owners within the Project area. Through a cooperative agreement with Caltrans, the County of Monterey is acting as the Lead Agency under the California Environmental Quality Act for the Project.

ENVIRONMENTAL REVIEW

Environmental review is complete for the CRFREE Project. The Project Environmental Impact Report (EIR) was certified by the Monterey County Board of Supervisors in a public hearing on January 20, 2020, and the Project was approved June 15, 2021. Federal environmental review was completed April 23, 2021, when Caltrans, as lead federal agency for the causeway portion of the Project, issued a finding of no significant impact (FONSI), agreeing with the United States Fish and Wildlife Service, as lead federal agency for the floodplain restoration portion of the project, who issued a FONSI on October 30, 2020.

FINANCING:

CRFREE is entirely grant funded. Costs associated with Whitson will be reimbursed from the Department of Water Resources (DWR) Flood Corridor grant (4600010665), and the DWR Coastal Watershed Flood Risk Reduction Grant (4600014577). Quarterly reimbursement requests will be submitted to minimize cash flow impacts. The DWR Flood Corridor Program Grant has \$462,080 available for Construction and Design support, and the DWR Coastal Watershed Flood Risk Reduction Grant has \$155,612 available for Construction support. CRFREE is budgeted in Fund 404, Fund Unit 8546 Appropriation Unit PFP057 under the purview of Public Works Facilities and Parks. There is no impact to the General Fund as a result of this recommendation. Staff time is included in the FY2022-23 HCD Appropriations Unit HCD001, Unit 8542.

Legistar File Number: A 22-509


BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

If approved, this action supports the Board of Supervisors' Strategic Initiatives for Administration and Infrastructure. The Project will provide sustainable physical infrastructure and associated flood risk reduction and habitat benefits to promote the safety of area residents and visitors.

☐ Economic Development
☒ Administration
☐ Health & Human Services
☒ Infrastructure
☐ Public Safety

Prepared by: Shandy Carroll, Management Analyst III, (831) 784-5643

Approved by: Melanie Beretti, AICP, Principal Planner ^{DS}

Approved by: Erik V. Lundquist, AICP, HCD Director 

The following attachments are on file with the Clerk of the Board:

Attachment A - Summary of DDA and Whitson PSAs

Attachment B - Amendment No. 7 to Whitson PSA

Attachment C - Amendment No. 6 to Whitson PSA

Attachment D - Amendment No. 5 to Whitson PSA

Attachment E - Amendment No. 4 to Whitson PSA

Attachment F - Amendment No. 3 to Whitson PSA

Attachment G - Amendment No. 2 to Whitson PSA

Attachment H - Amendment No. 1 to Whitson PSA

Attachment I - Whitson PSA

Attachment A

This page intentionally left blank.

SUMMARY OF PROFESSIONAL SERVICES AGREEMENTS

Whitson and Associates, Inc. dba Whitson Engineers (Multiyear Agreement #3000*2218)

PSA/ Amendment	Board of Supervisors/ Director Approval	PSA/Amendment Original Amount/Term and Increase/Extension	PSA Total
PSA	April 12, 2016/ April 14, 2016	Original Amount: \$1,113,987/ Original Term: April 13, 2016 to December 31, 2017	\$1,113,987
Amendment No. 1	N/A/ January 3, 2018	No Increase/ Extended Term to June 18, 2018	\$1,113,987
Amendment No. 2	February 27, 2018/ March 2, 2018	Increased Amount by \$56,000/ Extended Term to December 31, 2019	\$1,169,987
Amendment No. 3	N/A/ December 11, 2019	No Increase/ Updated Indemnification for Design Professional Services Claims/ Extended Term to December 31, 2022	\$1,169,987
Amendment No. 4	May 19, 2020/ May 26, 2020	Reallocated Unused Funding (\$493,091)/ Increased Amount by \$484,909/ Updated Fee Schedule effective July 1, 2020/ No Term Extension	\$1,654,896
Amendment No. 5	December 1, 2020/ December 11, 2020	Increase Amount by \$29,000/ No Term Extension	\$1,683,896
Amendment No. 6	January 25, 2022	Increase Amount by \$208,193/ Extend term to December 31, 2023	\$1,892,089
Amendment No. 7	Pending	Increase amount by \$310,139	\$2,202,228

This page intentionally left blank

Attachment B

This page intentionally left blank.

**AMENDMENT NO. 7
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
WHITSON AND ASSOCIATES, INC., DBA WHITSON ENGINEERS**

THIS AMENDMENT NO. 7 to the Professional Services Agreement No. A-13085 between the County of Monterey, a political subdivision of the State of California (“County”) and Whitson and Associates, Inc., dba Whitson Engineers (“CONTRACTOR”), is hereby entered into between the County and the CONTRACTOR (collectively, the “Parties”) and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement No. A-13085 with the County on April 14, 2016 (“Agreement”) to provide a Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (“Project”) for a term beginning April 13, 2016 through December 31, 2017 for an amount not to exceed \$1,113,987.00;

WHEREAS, Agreement was amended by the Parties on January 3, 2018 (“Amendment No. 1”) to extend the term for approximately six (6) additional months through June 18, 2018 with no increase in the not to exceed amount;

WHEREAS, Agreement was amended by the Parties on March 2, 2018 (“Amendment No. 2,” including Exhibit A-1 – Scope of Services/Payment Provisions and Exhibit E – State Coastal Conservancy Agreement No. 17-024) to extend the term for approximately eighteen (18) additional months through December 31, 2019, and to increase the amount by \$56,000.00 which resulted in a total not to exceed amount of \$1,169,987.00;

WHEREAS, Agreement was amended by the Parties on December 11, 2019 (“Amendment No. 3”) to update the Indemnification for Design Professional Services Claims provision and to extend the term for three (3) additional years through December 31, 2022 with no increase in the not to exceed amount;

WHEREAS, Agreement was amended by the Parties on May 26, 2020 (“Amendment No. 4,” including Exhibit A-2 – Scope of Services/Payment Provisions) to update the Fee Schedule effective July 1, 2020, to reallocate unused funding in the amount of \$493,090.82 and to increase the amount by \$484,909.18 which resulted in a total not to exceed amount of \$1,654,896.18;

WHEREAS, Agreement was amended by the Parties on December 1, 2020 (“Amendment No. 5,” including Exhibit A-3 – Scope of Services/Payment Provisions) to expand the original scope of the Agreement to include Task 7, Site-Specific ARS Curves and to increase the amount by \$29,000.00 which resulted in a total not to exceed amount of \$1,683,896.18;

WHEREAS, Agreement was amended by the Parties January 25, 2022 (“Amendment No. 6,” including Exhibit A-4 – Scope of Services/Payment Provisions) to expand the original scope of

Amendment No. 7 to Professional Services Agreement No. A-13085
Whitson and Associates, Inc., dba Whitson Engineers
Final Design of the CRFREE Project
Housing and Community Development (HCD)
Term: April 13, 2016 – December 31, 2023
Not to Exceed: \$2,202,228.17

the Agreement and to increase the amount by \$208,193 which resulted in a total not to exceed amount of \$1,892,089.17;

WHEREAS, additional funds are necessary to add Task 9 to coordinate on the development of a concept plan for an alternative to raising historic structures known as the ‘Barn Complex’ on State Parks land, Task 10 for bid support services, and Task 11 for construction phase support services; and

WHEREAS, the Parties wish to further amend the Agreement to expand the Scope of Services, and to increase the amount by \$310,139.00 for a new total not to exceed amount of \$2,202,228.17 to allow CONTRACTOR to continue to provide tasks identified in the Agreement as previously amended and as amended by this Amendment No. 7. The term of the Agreement remains unchanged.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 1, “Services to be Provided,” to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A, A-1, A-2, A-3, A-4 and A-5** in conformity with the terms of this Agreement.

2. Amend Paragraph 2, “Payments by County,” to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1, A-2, A-3, A-4 and A-5** 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 \$2,202,228.17

3. Amend Paragraph 4, “Additional Provisions/Exhibits,” by adding “**Exhibit A-5, Scope of Services/Payment Provisions**” to the Agreement.

******This section intentionally left blank******

Amendment No. 7 to Professional Services Agreement No. A-13085
Whitson and Associates, Inc., dba Whitson Engineers
Final Design of the CRFREE Project
Housing and Community Development (HCD)
Term: April 13, 2016 – December 31, 2023
Not to Exceed: \$2,202,228.17

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 7 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

PROJECT APPLICANT*

By: _____
Contracts/Purchasing Manager

Date: _____

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel

By: _____
C21D52A9D6 Kristi A. Markey
Deputy County Counsel

Date: 9/14/2022

Approved as to Fiscal Provisions

By: _____
D3834BFEC1D Gary Giboney
Chief Deputy Auditor-Controller

Date: 9/14/2022

By: _____
DocuSigned by:
Richard Weber
(Signature of Chair, President or Vice President)

Its: President
(Print Name and Title)

Date: 9/13/2022

By: _____
DocuSigned by:
Kim Wolfman
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Its: CFO
(Print Name and Title)

Date: 9/13/2022

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

Amendment No. 7 to Professional Services Agreement No. A-13085
Whitson and Associates, Inc., dba Whitson Engineers
Final Design of the CRFREE Project
Housing and Community Development (HCD)
Term: April 13, 2016 – December 31, 2023
Not to Exceed: \$2,202,228.17

EXHIBIT A-5 - SCOPE OF SERVICES/PAYMENT PROVISIONS

**To Agreement by and between
County of Monterey, hereinafter referred to as “County”
and
Whitson and Associates, Inc. dba Whitson Engineers,
hereinafter referred to as “CONTRACTOR”**

A. SCOPE OF SERVICES

- A.1** CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work to include additional services for the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (“Project”), as set forth below:

Task 9. State Parks Barn Complex Berm Alternative

1. Coordinate with the County staff and contractors regarding the State Parks Barn Complex Berm Alternative and develop a concept plan for review by State Parks and for use in preliminary scoping of environmental and permitting impacts by Denise Duffy & Associates.
2. If the berm alternative is selected for implementation, further development of the berm design and incorporate it into the Phase 2 floodplain restoration construction documents.

Task 10. Bid Phase Support Services (Construction)

1. Coordinate with the Project Team during the Bid Phase.
2. Coordinate with the County’s Construction Manager regarding their scope of work, especially related to special inspections and Archaeological and Native American monitoring.
3. Respond to Biddability Review comments.
4. Attend the Pre-Bid Meeting.
5. Respond to questions from bidders, prepare clarifications and specification revisions, and issue a Bid Addendum.
6. If requested, assist the County in reviewing the bids submitted.

Task 11. Construction Phase Support Services (Construction)

1. CONTRACTOR shall coordinate with the Project Team during construction.
2. CONTRACTOR shall assist the County’s Construction Manager with interpretation of construction documents. CONTRACTOR shall prepare written RFI responses to the requesting SUBCONTRACTOR.
3. County shall review CONTRACTOR’s product submittals, shop drawings and substitution requests.
4. CONTRACTOR shall perform site observations as requested by the County’s Construction Manager. Observations shall be for general conformance with the contract documents. CONTRACTOR shall submit to the County’s Construction Manager a written Field Report.
5. CONTRACTOR shall perform a final field review and provide the punch-list to the County’s Construction Manager.

EXHIBIT A-5 - SCOPE OF SERVICES/PAYMENT PROVISIONS

6. CONTRACTOR shall provide up to four (4) survey “field checks” as requested by the County’s Construction Manager.
7. CONTRACTOR shall provide support during the one- (1-) year warranty period, as requested by the County’s Construction Manager. Work may include field visits and coordination regarding plant establishment work and a one- (1-) year field review and punch-list.

A.2 CONTRACTOR shall produce the deliverables as noted above.

Written reports required under this Agreement shall be delivered in electronic format to the following individual:

Shandy Carroll
 Management Analyst III
 County of Monterey, Housing and Community Development
 1441 Schilling Place, South 2nd Floor
 Salinas, California 93901-4527
 Telephone: (831) 755-5643
 Email: carrolls@co.monterey.ca.us

B. PAYMENT PROVISIONS**B.1 COMPENSATION/ PAYMENT**

County shall pay an increased amount of **\$310,139** for a total not to exceed amount of **\$2,202,228.17** for the performance of all things necessary for or incidental to the performance of work as set forth in this Exhibit A-5. CONTRACTOR's compensation for services rendered shall be based on time and materials basis in accordance with the Agreement’s Fee Schedule (in Exhibit A-2 of this Agreement) and the Proposed Budget below. CONTRACTOR shall be responsible for payment to the SUBCONTRACTORS based on time and materials basis.

Fee Estimate Summary

	Whitson Engineers	Balance Hydrologics	H.T. Harvey	Kleinfelder	10% Admin. Fee	Expenses	Total
Task 4.1e. Tier 1 Restoration Plan for Coastal Permit	\$ -	\$ -	\$ 19,068	\$ -	\$ 1,907	\$ 550	\$ 21,525
Task 9. State Parks Barn Complex Berm Alternative	\$ 6,240	\$ 13,300	\$ 26,358	\$ -	\$ 3,966	\$ 1,000	\$ 50,864
Task 10. Bid Phase Support Services (Phase 1 Construction)	\$ 7,890	\$ 11,520	\$ 2,000	\$ -	\$ 1,352	\$ -	\$ 22,762
Task 11. Construction Phase Support Services (Phase 1 Construction)	\$ 59,420	\$ 78,280	\$ 42,418	\$ 8,000	\$ 12,870	\$ 14,000	\$ 214,988
Total	\$ 73,550	\$ 103,100	\$ 89,844	\$ 8,000	\$ 20,094	\$ 15,550	\$ 310,138

EXHIBIT A-5 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Labor Estimate
Bid and Construction Phase Support Services (Construction)

WE # 2172.08

7/22/2022

Fee Schedule T41

Task 9. State Parks Barn Complex Berm Alternative

	Whitson Engineers					HOURS	COST
	PE	SCE	CE	AE	1P		
1 Coordination and development of concept plan		16				16	\$ 3,120
2 Incorporate into Phase 2 construction documents		16				16	\$ 3,120
Subtotal	0	32	0	0	0	32	\$ 6,240
Rate	\$ 240	\$ 195	\$ 175	\$ 150	\$ 210		
Cost	\$ -	\$ 6,240	\$ -	\$ -	\$ -		\$ 6,240
							Total \$ 6,240

Task 10. Bid Phase Support Services (Construction)

	Whitson Engineers					HOURS	COST
	PE	SCE	CE	AE	1P		
1 General Coordination	2	8				10	\$ 2,040
2 Coordination w/ Harris & Associates		8				8	\$ 1,560
3 Biddability Review		8				8	\$ 1,560
4 Pre-Bid Meeting		4				4	\$ 780
5 Bid Addendum		8				8	\$ 1,560
6 Review Bids		2				2	\$ 390
Subtotal	2	38	0	0	0	40	\$ 7,890
Rate	\$ 240	\$ 195	\$ 175	\$ 150	\$ 210		
Cost	\$ 480	\$ 7,410	\$ -	\$ -	\$ -		\$ 7,890
							Total \$ 7,890

Task 11. Construction Phase Support Services (Construction)

	Whitson Engineers					HOURS	COST
	PE	SCE	LS	AE	1P		
1 General coordination and meetings		40				40	\$ 7,800
2 Respond to RFIs		40				40	\$ 7,800
3 Review Contractor Submittals		8				8	\$ 1,560
4 Site Observations (as requested; allowance)	4	40				44	\$ 8,760
5 Final field review, punch-list, coordination	4	16				20	\$ 4,080
6 Field Surveying (as requested; allowance)	4	20	20		40	84	\$ 16,760
7 Support during 1-year warranty period	4	20				24	\$ 4,860
Subtotal	16	184	20	0	40	260	\$ 51,620
Rate	\$ 240	\$ 195	\$ 175	\$ 150	\$ 210		
Cost	\$ 3,840	\$ 35,880	\$ 3,500	\$ -	\$ 8,400		\$ 51,620
							Total \$51,620

CONTRACTOR agrees that pursuant to Labor Code Section 1771, not less than general prevailing rate of per diem wages shall be paid to all workers employed on any public work projects in excess of one thousand dollars (\$1,000).

County and CONTRACTOR agree that CONTRACTOR shall be reimbursed for travel expenses during this Agreement. CONTRACTOR shall receive compensation for travel expenses as per the "County Travel and Business Expense Reimbursement Policy." A copy of the policy is available online at:

<https://www.co.monterey.ca.us/home/showdocument?id=69364>.

To receive reimbursement, CONTRACTOR shall provide a detailed breakdown of authorized expenses, identifying what was expended and when.

EXHIBIT A-5 - SCOPE OF SERVICES/PAYMENT PROVISIONS

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.

B.2 CONTRACTOR'S BILLING PROCEDURES

Payment shall be based upon satisfactory acceptance of each deliverable.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number **MYA 3200*2218**, Project Name and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to PWFP-Finance-AP@co.monterey.ca.us:

County of Monterey
Public Works, Facilities and Parks (PWFP) - Finance
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the Public Works, Facilities and Parks - Finance at (831) 755-4800 or via email to: PWFP-Finance-AP@co.monterey.ca.us.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

****This section intentionally left blank.****

This page intentionally left blank

Attachment C

This page intentionally left blank.

**AMENDMENT NO. 6
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
WHITSON AND ASSOCIATES, INC., DBA WHITSON ENGINEERS**

THIS AMENDMENT NO. 6 to the Professional Services Agreement No. 13085 between the County of Monterey, a political subdivision of the State of California (“County”) and Whitson and Associates, Inc., dba Whitson Engineers (“CONTRACTOR”), is hereby entered into between the County and the CONTRACTOR (collectively, the “Parties”) and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement No. A-13085 with the County on April 14, 2016 (“Agreement”) to provide a Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (“Project”) for a term beginning April 13, 2016 through December 31, 2017 for an amount not to exceed \$1,113,987.00;

WHEREAS, Agreement was amended by the Parties on January 3, 2018 (“Amendment No. 1”) to extend the term for approximately six (6) additional months through June 18, 2018 with no increase in the not to exceed amount;

WHEREAS, Agreement was amended by the Parties on March 2, 2018 (“Amendment No. 2,” including Exhibit A-1 – Scope of Services/Payment Provisions and Exhibit E – State Coastal Conservancy Agreement No. 17-024) to extend the term for approximately eighteen (18) additional months through December 31, 2019, and to increase the amount by \$56,000.00 which resulted in a total not to exceed amount of \$1,169,987.00;

WHEREAS, Agreement was amended by the Parties on December 11, 2019 (“Amendment No. 3”) to update the Indemnification for Design Professional Services Claims provision and to extend the term for three (3) additional years through December 31, 2022, with no increase in the not to exceed amount;

WHEREAS, Agreement was amended by the Parties on May 26, 2020 (“Amendment No. 4,” including Exhibit A-2 – Scope of Services/Payment Provisions) to update the Fee Schedule effective July 1, 2020, to reallocate unused funding in the amount of \$493,090.82 and to increase the amount by \$484,909.18 which resulted in a total not to exceed amount of \$1,654,896.18;

WHEREAS, Agreement was amended by the Parties on December 1, 2020 (“Amendment No. 5,” including Exhibit A-3 – Scope of Services/Payment Provisions) to expand the original scope of the Agreement to include Task 7, Site-Specific ARS Curves and to increase the amount by \$29,000.00 which resulted in a total not to exceed amount of \$1,683,896.18;

Amendment No. 6 to Professional Services Agreement No. A-13085
Whitson and Associates, Inc., dba Whitson Engineers
Final Design of the CRFREE Project
Housing and Community Development (HCD)
Term: April 13, 2016 – December 31, 2023
Not to Exceed: \$1,892,089.17

WHEREAS, additional funds are necessary due to the decision to split the floodplain work into two phases in order to take advantage of expiring grant funds and increased environmental permitting work;

WHEREAS, the Parties wish to further amend the Agreement to expand the Scope of Services, and to increase the amount by \$208,193.00 for a new total not to exceed amount of \$1,892,089.17 to allow CONTRACTOR to continue to provide tasks identified in the Agreement as previously amended and as amended by this Amendment No. 6;

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 1, "Services to be Provided," to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A, A-1, A-2, A-3, and A-4** in conformity with the terms of this Agreement.

2. Amend Paragraph 2, "Payments by County," to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1, A-2, A-3, and A-4** 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 \$1,892,089.17

3. Amend first sentence of Paragraph 3, TERM OF AGREEMENT, to read as follows:

The term of this Agreement is from April 13, 2016 to December 31, 2023, unless sooner terminated pursuant to the terms of this Agreement.

4. Amend Paragraph 4, "Additional Provisions/Exhibits," by adding "Exhibit A-4, Scope of Services/Payment Provisions" to the Agreement.

5. Amend Paragraph 14, "Notices," to read as follows:

FOR COUNTY:

Shandy Carroll, Management Analyst III
County of Monterey, Housing and Community Development
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901-4527
(831) 784-5643
Email: 194-HCD-Contracts@co.monterey.ca.us

6. In all places within the Agreement, any reference to the Resource Management Agency (RMA) is hereby replaced with Housing and Community Development (HCD).

Amendment No. 6 to Professional Services Agreement No. A-13085
Whitson and Associates, Inc., dba Whitson Engineers
Final Design of the CRFREE Project
Housing and Community Development (HCD)
Term: April 13, 2016 – December 31, 2023
Not to Exceed: \$1,892,089.17

7. In all places within the Agreement, any reference to the County's email address of RMA-Finance-AP-GP@co.monterey.ca.us for invoicing is hereby replaced with 194-HCD-Finance@co.monterey.ca.us.
8. All invoices shall reference the project name and an original hardcopy shall be sent to the following address or by email to 194-HCD-Finance@co.monterey.ca.us:

County of Monterey
Housing and Community Development – Finance
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the HCD Finance Division at (831) 755-4800 or via email to: 194-HCD-Finance@co.monterey.ca.us.

9. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
10. This Amendment No. 6 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 6 to Professional Services Agreement No. A-13085
Whitson and Associates, Inc., dba Whitson Engineers
Final Design of the CRFREE Project
Housing and Community Development (HCD)
Term: April 13, 2016 – December 31, 2023
Not to Exceed: \$1,892,089.17

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 6 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

PROJECT APPLICANT*

By: _____
Contracts/Purchasing Manager

Date: _____

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel

By: _____
C21D52A9D630416511 Kristi A. Markey
Deputy County Counsel

Date: 1/25/2022

Approved as to Fiscal Provisions

By: _____
D3834BFEC1D8416511 Gary Giboney
Chief Deputy Auditor-Controller

Date: 1/25/2022

By: _____
DocuSigned by:
Richard Weber
(Signature of Chair, President or Vice President)

Its: Richard Weber, President
(Print Name and Title)

Date: 1/25/2022

By: _____
DocuSigned by:
Kim Woltman
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Its: Kim Woltman, CFO
(Print Name and Title)

Date: 1/25/2022

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

Amendment No. 6 to Professional Services Agreement No. A-13085
Whitson and Associates, Inc., dba Whitson Engineers
Final Design of the CRFREE Project
Housing and Community Development (HCD)
Term: April 13, 2016 – December 31, 2023
Not to Exceed: \$1,892,089.17

EXHIBIT A-4 - SCOPE OF SERVICES/PAYMENT PROVISIONS

To Agreement by and between
County of Monterey, hereinafter referred to as “County”
and
Whitson and Associates, Inc. dba Whitson Engineers, hereinafter referred to as “CONTRACTOR”

A. SCOPE OF SERVICES

- A.1** CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work to include additional services for the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (hereinafter, “Project”), as set forth below:

Develop planting and irrigation plans for the highway portion of the Project and develop two separate bid sets (“Phase 1” and “Phase 2”) for the Project, to expedite completion of the Phase 1 bid and permitting package with the intent that Phase 1 construction start in late 2022.

Task 2.a. Additional FEMA CLOMR Coordination

This Task addresses additional coordination with FEMA due to staffing turnover at FEMA.

Deliverables:

- *Respond to additional comments from FEMA*

CONTRACTOR has not yet completed this task and requests an additional \$2,838.00 for completion of Task 2.a.

Task 4.1.d. Highway Planting and Irrigation Plans

This task addresses the requirement from Caltrans to prepare planting and irrigation plans for tree planting within the right-of-way.

Deliverables:

- *Prepare a concept plan for plantings (pole cuttings and/or container plants) and irrigation within the highway right-of-way and coordinate the scope of the proposed work with Caltrans.*
- *Prepare 90% and Final construction documents for the proposed planting and irrigation within the highway right-of-way.*

CONTRACTOR has not yet completed this task and requests an additional \$37,418.00 for completion of Task 4.1.d.

This task addresses additional coordination needed to obtain right-of-way cost estimates, appraisals, review, and acquisition/negotiation for services for Phase 1 construction.

Deliverables:

- *For Phase 1 construction, only temporary construction easements are anticipated to be required from Big Sur Land Trust, Monterey Peninsula Regional Parks District, and Eastwood Family, and no permanent easements or acquisition is anticipated.*

CONTRACTOR has not yet completed this task and requests an additional \$13,800.00 for completion of Task 5.a.

EXHIBIT A-4 - SCOPE OF SERVICES/PAYMENT PROVISIONS**Task 8. Phased Construction Documents**

This task addresses the request by Monterey County to split the project into two separate construction and bid packaged (“Phase 1” and “Phase 2”). Phase 1 construction is proposed to begin in late 2022 and Phase 2 in early 2024. Current Contract Scope will be used for the Phase 2 review letter.

Deliverables

- *Coordinate with the Project Team on the scope of Phase 1 construction. Update and modify the overall 65% design as needed due to the proposed phasing and develop separate Phase 1 and Phase 2 bid packages (Plans, Specifications and Estimates).*
- *Review the Phase 1 Plans and Specifications and prepare a Geotechnical Review Letter for Phase 1.*

This is a new task, and CONTRACTOR requests \$154,137.00 for completion of Task 8.

Any newly identified tasks not included herein shall not be conducted by CONTRACTOR until presented to County in writing and with County approval, amended into this Agreement.

B. PAYMENT PROVISIONS**B.1 COMPENSATION/ PAYMENT**

County shall pay an increased amount of **\$208,193.00** for a total not to exceed amount of **\$1,892,089.17** for the performance of all things necessary for or incidental to the performance of work as set forth in this Exhibit A-4. CONTRACTOR's compensation for services rendered shall be based on time and materials basis in accordance with the Agreement's Fee Schedule (in Exhibit A-2 of this Agreement) and the Proposed Budget below.

Proposed Budget

	Whitson Engineers	Balance Hydrologics	Cornerstone Structural Engineering Group	H.T. Harvey	Kleinfelder	Avila Consulting Engineers	ARWS	Bierman Hydro- geologic	Aurum Consulting Engineers	10% Admin. Fee	Expenses	Total
Task 2.a. Additional FEMA CLOMR Coordination		\$ 2,580								\$ 258	\$ -	\$ 2,838
Task 4.d. Highway Planting and Irrigation Plans	\$ 3,900			\$ 30,471						\$ 3,047	\$ -	\$ 37,418
Task 5.a. TCE's for Phase 1 Construction	\$ 7,800						\$ 5,000			\$ 500	\$ 500	\$ 13,800
Task 8. Phased Construction Documents	\$ 29,700	\$ 46,530		\$ 63,140	\$ 3,000					\$ 11,267	\$ 500	\$ 154,137
Total	\$ 41,400	\$ 49,110	\$ -	\$ 93,611	\$ 3,000	\$ -	\$ 5,000	\$ -	\$ -	\$ 15,072	\$ 1,000	\$ 208,193

CONTRACTOR agrees that pursuant to Labor Code Section 1771, not less than general prevailing rate of per diem wages shall be paid to all workers employed on any public work projects in excess of one thousand dollars (\$1,000.00).

County and CONTRACTOR agree that CONTRACTOR shall be reimbursed for travel expenses during this Agreement. CONTRACTOR shall receive compensation for travel expenses as per the “County Travel and Business Expense Reimbursement Policy”. A copy

EXHIBIT A-4 - SCOPE OF SERVICES/PAYMENT PROVISIONS

of the policy is available online at:
<https://www.co.monterey.ca.us/home/showdocument?id=69364>.

To receive reimbursement, CONTRACTOR shall provide a detailed breakdown of authorized expenses, identifying what was expended and when.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.

B.2 CONTRACTOR'S BILLING PROCEDURES

Payment shall be based upon satisfactory acceptance of each deliverable.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number **MYA 3000*2218**, Project Name and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to 194-HCD-Finance@co.monterey.ca.us:

County of Monterey
 Housing and Community Development Department - Finance
 1441 Schilling Place, South 2nd Floor
 Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the Housing and Community Development Department - Finance at (831) 755-4800 or via email to: 194-HCD-Finance@co.monterey.ca.us.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

This page intentionally left blank.

Attachment D

This page intentionally left blank.



Monterey County Board of Supervisors

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066
www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor John M. Phillips to:

Agreement No.: A-13085

- a. Approve Amendment No. 5 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers to include additional services associated with the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, to increase the not-to-exceed amount by \$29,000, for a total amount not to exceed \$1,683,896, with no extension to the term from April 13, 2016 to December 31, 2022; and
- b. Authorize the Director of Housing and Community Development to execute Amendment No. 5 and up to two (2) future amendments where the amendments do not significantly alter the scope of work or increase the approved Agreement amount, subject to the review and approval of the Office of County Counsel as to form.

PASSED AND ADOPTED on this 1st day of December 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams
NOES: None
ABSENT: None
(Government Code 54953)

I, Valerie Ralph, 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 82 for the meeting December 1, 2020.

Dated: December 1, 2020
File ID: A 20-494
Agenda Item No.: 42

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

Joel G. Pablo, Deputy

**AMENDMENT NO. 5
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
WHITSON AND ASSOCIATES, INC. DBA WHITSON ENGINEERS**

THIS AMENDMENT NO. 5 to Professional Services Agreement No. A-13085 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Whitson and Associates, Inc. dba Whitson Engineers (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into Professional Services Agreement No. A-13085 with County on April 14, 2016 (hereinafter, "Agreement") to provide a Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (hereinafter, "Project") for a term beginning April 13, 2016 through December 31, 2017 for an amount not to exceed \$1,113,987; and

WHEREAS, Agreement was amended by the Parties on January 3, 2018 (hereinafter, "Amendment No. 1") to extend the term for approximately six (6) additional months through June 18, 2018 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on March 2, 2018 (hereinafter, "Amendment No. 2", including Exhibit A-1 - Scope of Services/Payment Provisions and Exhibit E - State Coastal Conservancy Agreement No. 17-024) to extend the term for approximately eighteen (18) additional months through December 31, 2019 and to increase the amount by \$56,000 which resulted in a total not to exceed amount of \$1,169,987; and

WHEREAS, Agreement was amended by the Parties on December 11, 2019 (hereinafter, "Amendment No. 3") to update the Indemnification for Design Professional Services Claims provision and to extend the term for three (3) additional years through December 31, 2022 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on May 26, 2020 (hereinafter, "Amendment No. 4", including Exhibit A-2 - Scope of Services/Payment Provisions) to update the Fee Schedule effective July 1, 2020, to reallocate unused funding in the amount of \$493,090.82 and to increase the amount by \$484,909.18 which resulted in a total not to exceed amount of \$1,654,896.18; and

WHEREAS, due to the latest requirements from the California Department of Transportation (Caltrans), a site-specific site response analysis and site-specific acceleration response spectral (ARS) curves are necessary for the Project; and

WHEREAS, the Parties have identified the need to expand the original scope of the Agreement to include Task 7, Site-Specific ARS Curves, as further set out in Exhibit A-3 of this Agreement, attached hereto and incorporated herein by reference; and

WHEREAS, additional funding is necessary to allow CONTRACTOR to complete tasks for the Project; and

WHEREAS, the Parties wish to further amend the Agreement to increase the amount by \$29,000.00 for a total amount not to exceed \$1,683,896.18 to allow CONTRACTOR to continue to provide tasks identified in the Agreement and as amended by this Amendment No. 5.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

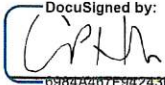
1. Amend the first sentence of Paragraph 1, "Services to be Provided", to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibits A, A-1, A-2, and A-3 in conformity with the terms of this Agreement.
2. Amend Paragraph 2, "Payments by County", to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibits A, A-1, A-2, and A-3, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$1,683,896.18.
3. Amend Paragraph 4, "Additional Provisions/Exhibits", by adding "Exhibit A-3, Scope of Services/Payment Provisions" to the Agreement.
4. The "Delivery Dates" for Tasks 2, 3, 4, 5 and 6 referenced in Exhibit A of the Agreement and for Task 7 referenced in Exhibit A-3 of the Agreement, are hereby amended to extend through December 31, 2022, to conform to the amended term of the Agreement.
5. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
6. This Amendment No. 5 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
7. The recitals to this Amendment No. 5 are incorporated into the Agreement and this Amendment No. 5.

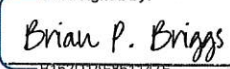
IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 5 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

By: 
DocuSigned by:
09847A407F94243E
Carl P. Holm, AICP
Housing and Community Development Director


Date: 12/11/2020

Approved as to Form
Office of the County Counsel-Risk Manager
Leslie J. Girard, County Counsel-Risk Manager

By: 
DocuSigned by:
B162D1AF861147F...
Brian P. Briggs
Deputy County Counsel

Date: 10/28/2020

Approved as to Fiscal Provisions

By: 
DocuSigned by:
D3834BFEC1D8449...
Auditor/Controller

Date: 10/28/2020

Approved as to Indemnity and Insurance Provisions
Office of the County Counsel-Risk Manager

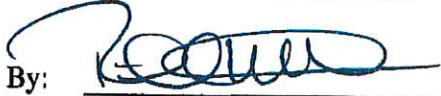
By: _____
Leslie J. Girard
County Counsel-Risk Manager

Date: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.


CONTRACTOR*

Whitson and Associates, Inc.
dba Whitson Engineers
Contractor's Business Name

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

Its: Richard Weber, President
(Print Name and Title)

Date: 10/27/2020

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

Its: Kimberley Woltman, CFO
(Print Name and Title)

Date: 10/27/2020

EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

**To Agreement by and between
County of Monterey, hereinafter referred to as "County"
and**

Whitson and Associates, Inc. dba Whitson Engineers, hereinafter referred to as "CONTRACTOR"

A. SCOPE OF SERVICES

- A.1** CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work to include additional services for the completion of the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (hereinafter, "Project"), as set forth below:

Provide a site response analysis for the Project in preparation for the Final Foundation Report (FR) and Geotechnical Design Report (GDR).

Background:

Based on review of the available data there is significant amount of liquefaction at the Project site thus classifying the site as Site Class F per Caltrans Seismic Design Criteria (SDC) Version 2.0 (April 2019). Based on discussions with Caltrans, a site-specific site response analysis is required to develop the site-specific acceleration response spectral (ARS) for this Project.

Task 7. Site-Specific ARS Curves (Kleinfelder, Inc., subcontractor to CONTRACTOR)

To perform site response analysis, time histories spectrally modified to a target ARS are needed. The target ARS is the base spectrum at a depth where a rocklike material is expected; or, if the rocklike material is very deep, then at a depth where competent and very dense soils are anticipated. It is anticipated that soils will extend to significant depth below the site and as such a competent/dense material boundary will be used. A target ARS will be developed using ARS online tool (Version 3.0.2). The scope of the site response analysis includes the following:

- Based on the results of field investigation and laboratory tests, develop two (2) idealized soil profiles for the Project: one (1) for each abutment. Bottom of these soil profiles will extend to either bedrock/rocklike material or to a depth of competent/dense soils.
- Estimate VS30 at the depth which was selected as the bottom of the soil profile for site response analysis.
- Develop target ARS using Caltrans ARS online Version 3.0.2 and using VS30 value at the bottom of the soil profile.
- Using United States Geological Survey (USGS) Unified Hazard Tool, perform deaggregation analyses of the hazard to estimate the controlling seismic source(s) and their distances associated with the period ranges of interest.
- Select and spectrally modify seven (7) ground acceleration time histories based on the spectral shape, earthquake magnitude, distance, and frequency content from historical earthquake records.
- Perform equivalent linear and nonlinear (total stress) site response analyses using computer program DEEPSOIL for two (2) soil profiles using seven (7) time histories

EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

- Develop site-specific ARS using the results of site response analyses.

Deliverables:

- *Site Response Analysis Report, which will be attached as an Appendix to FR.*

Any newly identified tasks not included herein shall not be conducted by CONTRACTOR until presented to County in writing and with County approval, amended into this Agreement.

A.2 CONTRACTOR shall produce the deliverables as noted above.

Written reports required under this Agreement shall be delivered in electronic format to the following individual:

Shandy Carroll
Management Analyst III
County of Monterey
Housing and Community Development Department
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527
Telephone: (831) 755-5643
Email: carrolls@co.monterey.ca.us

B. PAYMENT PROVISIONS**B.1 COMPENSATION/ PAYMENT**

County shall pay an increased amount of **\$29,000.00** for a total not to exceed amount of **\$1,683,896.18** for the performance of all things necessary for or incidental to the performance of work as set forth in this Exhibit A-3. CONTRACTOR's compensation for services rendered shall be based on time and materials basis in accordance with the Agreement's Fee Schedule (in Exhibit A-2 of this Agreement) and the Proposed Budget below.

**Proposed Budget
Task 7, Site-Specific ARS Curves**

	Whitson Engineers	Balance Hydrologics	Cornerstone Structural Engineering Group	H.T. Harvey	Kleinfelder	Avila Consulting Engineers	ARWS	Blerman Hydro- geologic	Aurum Consulting Engineers	10% Admin. Fee	Expenses (see expense worksheet)	Total
Site-Specific ARS Curves	\$ 368		\$ 400		\$ 25,629					\$ 2,603	\$ -	\$ 29,000

CONTRACTOR agrees that pursuant to Labor Code Section 1771, not less than general prevailing rate of per diem wages shall be paid to all workers employed on any public work projects in excess of one thousand dollars (\$1,000).

County and CONTRACTOR agree that CONTRACTOR shall be reimbursed for travel expenses during this Agreement. CONTRACTOR shall receive compensation for travel

EXHIBIT A-3 - SCOPE OF SERVICES/PAYMENT PROVISIONS

expenses as per the "County Travel and Business Expense Reimbursement Policy". A copy of the policy is available online at: <https://www.co.monterey.ca.us/home/showdocument?id=69364>.

To receive reimbursement, CONTRACTOR shall provide a detailed breakdown of authorized expenses, identifying what was expended and when.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.

B.2 CONTRACTOR'S BILLING PROCEDURES

Payment shall be based upon satisfactory acceptance of each deliverable.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number **MYA 3000*2218**, Project Name and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to RMA-Finance-AP@co.monterey.ca.us:

County of Monterey
Housing and Community Development Department - Finance
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the Housing and Community Development Department - Finance at (831) 755-4800 or via email to: RMA-Finance-AP@co.monterey.ca.us.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

This page intentionally left blank

Attachment E

This page intentionally left blank.

**AMENDMENT NO. 4
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
WHITSON AND ASSOCIATES, INC. DBA WHITSON ENGINEERS**

THIS AMENDMENT NO. 4 to Professional Services Agreement No. A-13085 between the County of Monterey, a political subdivision of the State of California (hereinafter, “County”) and Whitson and Associates, Inc. dba Whitson Engineers (hereinafter, “CONTRACTOR”) is hereby entered into between the County and the CONTRACTOR (collectively, the “Parties”) and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into Professional Services Agreement No. A-13085 with County on April 14, 2016 (hereinafter, “Agreement”) to provide a Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (hereinafter, “Project”) for a term beginning April 13, 2016 through December 31, 2017 for an amount not to exceed \$1,113,987; and

WHEREAS, Agreement was amended by the Parties on January 3, 2018 (hereinafter, “Amendment No. 1”) to extend the term for approximately six (6) additional months through June 18, 2018 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on March 2, 2018 (hereinafter, “Amendment No. 2”, including Exhibit A-1 - Scope of Services/Payment Provisions and Exhibit E – State Coastal Conservancy Agreement No. 17-024) to extend the term for approximately eighteen (18) additional months through December 31, 2019 and to increase the amount by \$56,000 which resulted in a total not to exceed amount of \$1,169,987; and

WHEREAS, Agreement was amended by the Parties on December 11, 2019 (hereinafter, “Amendment No. 3”) to update the Indemnification for Design Professional Services Claims provision and to extend the term for three (3) additional years through December 31, 2022 with no increase in the not to exceed amount; and

WHEREAS, Task 1, Draft Final (60%) Design of the Agreement has been completed; and

WHEREAS, due to clarification of the necessary steps to continue with the Project, the Parties have identified the need to expand Tasks 2, 3, 4, 5 and 6 of the original scope and have identified new tasks associated with well design and additional right-of-way work for completion of the Project, as further set out in Exhibit A-2 of this Agreement; and

WHEREAS, the Parties wish to reallocate funding in the amount of \$493,090.82 to update existing tasks and to add new tasks as included in Exhibit A-2, attached hereto and incorporated herein by reference; and

WHEREAS, CONTRACTOR’s Fee Schedule requires an update effective July 1, 2020; and

WHEREAS, the Project has been delayed due to ongoing coordination with adjacent landowners and regulatory agencies; and

WHEREAS, due to the delay, remaining and new tasks have been identified for an update or inclusion for completion of the Project, as outlined in Exhibit A-2 to the Agreement; and

WHEREAS, additional funding is necessary to allow CONTRACTOR to complete tasks for the Project; and

WHEREAS, the Parties wish to further amend the Agreement to update the Fee Schedule effective July 1, 2020, reallocate unused funding in the amount of \$493,090.82 and increase the amount by \$484,909.18 for a total amount not to exceed \$1,654,896.18 to allow CONTRACTOR to continue to provide tasks identified in the Agreement and as amended by this Amendment No. 4.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 1, “Services to be Provided”, to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A, A-1 and A-2** in conformity with the terms of this Agreement.

2. Amend Paragraph 2, “Payments by County”, to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1 and A-2**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$1,654,896.18.

3. Amend Paragraph 4, “Additional Provisions/Exhibits”, by adding “Exhibit A-2, Scope of Services/Payment Provisions” to the Agreement.
4. The “Delivery Dates” for Tasks 2, 3, 4, 5 and 6 referenced in Exhibit A of the Agreement, are hereby amended to extend through December 31, 2022, to conform to the amended term of the Agreement.
5. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
6. This Amendment No. 4 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
7. The recitals to this Amendment No. 4 are incorporated into the Agreement and this Amendment No. 4.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 4 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR*

By: _____

Carl P. Holm, AICP
RMA Director

Whitson and Associates, Inc.
dba Whitson Engineers

Contractor's Business Name

Date: _____

By: _____

(Signature of Chair, President or Vice President)

Approved as to Form

Office of the County Counsel

Leslie J. Girard, County Counsel

Its: _____

(Print Name and Title)

Date: _____

By: _____

Brian P. Briggs
Deputy County Counsel

By: _____

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

Date: _____

Its: _____

(Print Name and Title)

Approved as to Fiscal Provisions

Date: _____

By: _____

Auditor/Controller

Date: _____

Approved as to Indemnity and Insurance Provisions

Office of the County Counsel-Risk Manager

Leslie J. Girard, County Counsel-Risk Manager

By: _____

Name: _____

Title: _____

Date: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

To Agreement by and between
County of Monterey, hereinafter referred to as “County”
and
Whitson and Associates, Inc. dba Whitson Engineers, hereinafter referred to as “CONTRACTOR”

A. SCOPE OF SERVICES

- A.1** CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work to provide expanded services for the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (hereinafter, “Project”). The following scope outlines the tasks necessary to complete the Project. In addition, the current remaining budget in the amount of \$493,090.82 for tasks previously outlined in Exhibits A and A-1 of this Agreement shall be reallocated to the tasks outlined below.

Task 1. Draft Final (60%) Design

Task 1 is complete.

Task 2. Federal Emergency Management Agency (FEMA) Conditional Letter of Map Revision (CLOMR) (UPDATE)

This task is expanded to include a new FEMA Engineering Library Request; updates to the digital base map; a floodway encroachment analysis for the designated floodway just upstream of the Project; modeling the flood of record for the California Department of Transportation (Caltrans) Final Hydraulics Report (FHR); and Public notification and stakeholder outreach.

FEMA Engineering Library Request. CONTRACTOR’s first order of business shall be to submit a FEMA Engineering Library request to confirm that CONTRACTOR’s current modeling is the most recent model on file and to collect data that may have been submitted by others for the Letter of Map Revision (LOMR) requests along the affected reach.

Computer Aided Design (CAD) Base Preparation. Update the CAD base (workmaps) based on the Project’s topographic mapping in the areas covering the floodplain restoration project, and the two-foot (2’) contour interval data collected by FEMA for the remainder of the study area. The FEMA 2’ contour data shall be converted to North American Vertical Datum (NAVD)-88 using the vertical conversions for the main channel and overbank areas that are included in the Monterey County Flood Insurance Study.

Hydraulic Modeling. Perform hydraulic modeling using comparable methodologies to the currently-effective flood study. Hydraulic model runs shall be developed for duplicate effective, pre-Project, and post-Project conditions. Each of the above model conditions shall require three (3) runs (all levees hold, south overbank levees fail, and north overbank levees fail scenarios) to describe the flooding potential and each of those analyses shall be completed for the ten (10), fifty (50), one hundred (100), and five hundred (500) year flood flows. This is a total of thirty-six (36) model runs. Flow splits shall be manually re-optimized and energy

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

grades balanced for twenty-four (24) of the thirty-six (36) runs [twelve (12) duplicate effective flow splits shall remain unchanged].

A floodway exists just upstream of the Project. A floodway encroachment analysis may need to be completed if it is determined that the Project could affect the downstream end of the floodway extents. This analysis is anticipated in CONTRACTOR's budget.

CONTRACTOR shall model the flood of record (1995) for inclusion on the foundation plan (currently the overtopping flood is shown).

NOTE: The hydraulic modeling task has been budgeted assuming that no new hydrologic analyses or revisions to the currently effective tailwater assumptions will be required by FEMA.

CLOMR Submittal Package. Model results shall be used to conditionally re-delineate the Zone AE boundaries [one hundred (100) year floodplain] included on the impacted FEMA Flood Insurance Rate Map (FIRM) panel and adjust the associated Base Flood Elevations (BFEs). Zone X boundaries shall also be re-delineated based on the five hundred (500) year flood model results. Flood profile plots shall be adjusted based on the model results for the main channel, south overbank, and north overbank reaches. The analyses described in the subtasks above shall be summarized and documented in a CLOMR introductory cover letter and provided to FEMA along with the required MT-2 forms and supporting documentation such as tabulated results from the thirty-six (36) model runs, digital workmaps, annotated FIRM panels, updated flood profiles, and draft notification announcements. CONTRACTOR's sub-contractor, Balance Hydrologics, Inc., shall lead the effort to digitally submit the CLOMR through the FEMA online portal in order to expedite the processing time. A processing fee in the amount of \$6,500 is required by FEMA and is included in the attached budget as an expense.

Respond to FEMA Request for Information (RFI). Budget is allocated to prepare up to three (3) response to comment submittals to FEMA.

Public Notice Preparation and Transmittals. This subtask is budgeted assuming individual property owner notification will be required by FEMA; otherwise, impacted property owners shall be notified in bulk through a posting in a local newspaper and by making the CLOMR document available for review at County offices.

Stakeholder Outreach. CONTRACTORS's sub-contractor, Balance Hydrologics, Inc., shall lead the effort to obtain approval of the CLOMR from the Monterey County Water Resources Agency (MCWRA). Budget is allocated for one (1) in-person meeting with MCWRA staff to present the document, coordinate their review, and facilitate their signing of the FEMA MT-2 forms. Budget is allocated to respond to comments and reissue the document as needed. Balance Hydrologics, Inc. shall also assist CONTRACTOR and the overall Project team in engaging other Project stakeholders as needed. This task is budgeted to cover two (2) additional meetings and subsequent communication.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Task 3. Caltrans Project Report (PR) and Hydraulic Report (UPDATE)

This Task includes PR revisions based on current Caltrans design standards and updating the citations and discussions of background traffic data, studies and reports based on the most currently available sources. The Location Hydraulic Study (LHS)/Floodplain Evaluation Report (FPE) and FHR will also be updated to reflect the current Caltrans documentation requirements.

Update the Draft Project Report (DPR) to a Final PR. Update the text to reflect current (2019) Caltrans design standards and the most current available traffic data. The PR shall include an updated LHS/FPE, FHR, and the approved Initial Study/Mitigated Negative Declaration (IS/MND) as attachments, in addition to the 60% Plans and Estimate and other various background technical documents.

Revise the *FHR and LHS/Floodplain Encroachment Report (LHS/FER)* based on current Caltrans documentation requirements.

Deliverables:

- *Caltrans PR (copies as required by Caltrans)*
- *FHR with LHS/FER included as an Appendix (copies as required by Caltrans)*

Task 4. Final (90% & 100%) Design

Task 4.1 Final (90% & 100%) Design – Restoration (UPDATE)

- Update the **Restoration Plans** based on comments received on the 60% submittal.
- Update the **Specifications** based on comments received on the 60% submittal.
- Update the **Construction Cost Estimate** based on 90% Plans and Specifications.
- Update the **Schedule** and maintain throughout Final Design.
- Update the **Stormwater Pollution Prevention Plan (SWPPP) Intent Document** based on comments received on the 60% submittal.
- Respond to plan check comments received on the 90% submittal and develop **Final (100%) Design** package.
- Update the **Restoration and Management Plan (RMP)** based on the 90% and 100% designs, if required. (NOTE: The magnitude of the effort required is unknown., A modest level of effort is budgeted. If the task requires a higher level of effort than budgeted, an additional fee may be needed.)
- **Submit** the 90% Design Package to County for Grading Permit plan check.
- Participate in up to one (1) **Public/Stakeholder Meeting** or Presentation, if requested.
- Participate in a Half Day Technical and Permitting Committee Meeting, if requested.
- Participate in one (1) hour biweekly teleconferences, if requested.
- A budget is included for **reimbursable expenses** including reproduction/printing and mileage. Mileage shall be charged according to the current Internal Revenue Service (IRS) mileage rate.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

90% & 100% Final Design – Restoration Deliverables:

- *Comment Response Letter*
- *Restoration Plans*
- *Special Provisions*
- *Engineer's Estimate*
- *Project Schedule*
- *SWPPP Intent Document*
- *Update to RMP, if required*

Optional Task 4.1.c Additional Final Restoration Work (UPDATE)

This task is added to allow for any additional work that may be identified during completion of Task 4.1, Final (90% & 100%) Design – Restoration. This Optional Task and associated services shall not be provided unless authorized in writing by County prior to the optional services being provided. Optional services completed by CONTRACTOR prior to receiving County's written authorization to proceed shall not be eligible for compensation.

Task 4.2 Final (90% & 100%) Design – Causeway (UPDATE)

- Submit the Caltrans Encroachment Permit Application using the 60% Plans. Other permits, including the County Coastal Development Permit (CDP) and Grading Permit, shall not be handled by CONTRACTOR.
- Update the **Highway Plans** based on comments received on the 60% submittal.
- Update the **Specifications** based on comments received on the 60% submittal.
- Update the **Construction Cost Estimate** based on 90% Plans and Specifications.
- Update the **Foundation Report** and **Geotechnical Design Report** based on comments received on the 60% submittal.
- Perform independent in-house **Bridge Design Check**. CONTRACTOR shall select a staff engineer (Checker) who was not involved in the design to re-analyze the bridge, verify member capacities and review the special provisions for the bridge. The Checker shall provide a list of comments and a set of "red-marked" plans that communicate issues uncovered during the preparation of the independent review. Issues raised by the Checker shall be discussed and resolved between the CONTRACTOR's Designer and Checker. The Final Design shall reflect agreement between the two (2) engineers.
- **Submit** the 90% Design Package to Caltrans for Encroachment Permit plan check.
- Respond to plan check comments received on the 90% submittal, and develop **Final (100%) Design Package**.
- A budget is included for **reimbursable expenses** including reproduction/printing and mileage.

90% & 100% Final Design – Causeway Deliverables (Directly Submitted to Caltrans):

- *Comment Response Letter*
- *Highway Plans*
- *Special Provisions*
- *Engineer's Estimate*
- *Final Foundation Report*
- *Final Geotechnical Design Report*

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Optional Task 4.2.c Additional Final Causeway Work (UPDATE)

This task is added to allow for any additional work that may be identified during completion of Task 4.2, Final (90% & 100%) Design – Causeway. This Optional Task and associated services shall not be provided unless authorized in writing by County prior to the optional services being provided. Optional services completed by CONTRACTOR prior to receiving County's written authorization to proceed shall not be eligible for compensation.

Task 4.3 Well Design

This is a new Task. Well design shall be completed by CONTRACTOR's sub-contractor, Bierman Hydro-Geo-Logic, P.C., and electrical design by CONTRACTOR's sub-contractor, Aurum Consulting Engineers, Inc.

- Prepare plans and specifications for relocation of the State of California (State) Parks well. Relocation shall include destruction of the existing well, and construction of a new well at the location shown on the 60% Drawings.
- Prepare drawings and specifications for modifications to the Riverfield Well. Modifications are proposed to include raising the well head and adjacent control boxes to above the one hundred (100) year base flood elevation.
- Prepare the associated electrical plans and specifications and coordinate with Pacific Gas & Electric Company (PG&E) for the relocated service to the State Parks Well.

Task 5. Right-of-Way (ROW) (UPDATE)

During the 60% Design Phase, CONTRACTOR coordinated with Caltrans and State Parks to establish the process used for ROW Acquisition from State Parks, and CONTRACTOR prepared preliminary ROW Appraisal Maps and Draft ROW Data Sheets for Assessor's Parcel Number (APN) 243-021-007 (State Parks) and APN 243-071-007 [Big Sur Land Trust (BSLT)]. The proposed scope below is expanded from CONTRACTOR's original scope to address the temporary construction easements which are now proposed on APN 243-021-007 (State Parks), APN 243-071-007 (BSLT), APN 243-071-008 (Eastwood), and APNs 157-121-001 and 243-081-005 [Monterey Peninsula Regional Park District (MPRPD)], as well as revise the previously prepared ROW Data Sheets and supporting documentation to reflect current pricing and schedule.

5.1 ROW

Provide ROW cost estimating, appraisal, appraisal review, and acquisition/negotiation services, including:

- a. General consultation including establishment of work process; attendance of meetings; coordination with County, Caltrans, and State Parks; and general assistance to County on ROW related issues.
- b. Update the previously prepared Caltrans ROW Data Sheet to reflect current scope and cost estimates. Upon submittal to Caltrans and receipt of comments the ROW Data Sheet shall be updated and finalized.
- c. Update the Acquisition Maps and draft Legal Descriptions for proposed ROW donation by BSLT and Transfer of Control from State Parks.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

- d. Prepare an Appraisal and Appraisal Review of ROW to be donated by BSLT. Appraisal is for the "Fair Market Value" of the property as per California Code of Civil Procedure, Section 1263.320.
- e. Prepare acquisition documents including Offer Letter, Summary Statement pertaining to the acquisition of real property or an interest therein, Purchase Agreement, Deed, Public Acquisition Brochure and Goodwill Information Sheet (if not addressed in Property Owner Brochure). Per Section 102 of the California Streets and Highways Code, a copy of the appraisal report shall be provided to the property owner.
- f. If needed and requested by County, negotiate to acquire one (1) fee simple acquisition and one (1) temporary construction easement identified by Property Owner. CONTRACTOR assumes there shall be negotiations with only one (1) property owner and no lessees.
- g. Provide Draft ROW Certification for approval by County, in accordance with the Caltrans ROW Manual. Supporting documentation shall be submitted along with ROW Certification. Supporting documentation shall include, but is not limited to: ROW Contracts; Agreements for Possession and Use; Orders for Prejudgment Possession; deeds, diary, notes; Certification of Utility Facilities; and ROW Sufficiency Forms. Coordinate processing of the ROW Certification with Caltrans.

ROW Deliverables:

- *ROW Data Sheet*
- *Acquisition Maps and Legal Descriptions*
- *Appraisal and Appraisal Review*
- *Acquisition Documents including Offer Letter, Summary Statement, Purchase Agreement, Deed, Public Acquisition Brochure and Goodwill Information Sheet (if not addressed in Property Owner Brochure)*
- *Draft ROW Certification and Supporting Documentation*

Optional Task 5.2 Additional ROW Work

CONTRACTOR included an allowance of \$20,000 for additional or extended negotiations/acquisitions work which may be required but is not currently anticipated. This Optional Task and associated services shall not be provided unless authorized in writing by County prior to the optional services being provided. Optional services completed by CONTRACTOR prior to receiving County's written authorization to proceed shall not be eligible for compensation.

Task 6. Utility Coordination

Task 6.1 Utility Relocation Coordination (UPDATE)

Coordinate utility relocation, including:

- a. Re-issue the previously sent "No Conflicts" Letter (originally issued in 2015), Verification Letter to Owner (2015), Relocation Claim Letter to Owner (2016), Clarification Regarding Utility Undergrounding (2016), Memorandum Regarding Anticipated Bridge Displacements (2016), and Utility Conflict Plans (2016).
- b. Prepare a Report of Investigation, Draft Utility Agreement, and Notice to Owner for each utility. Coordinate approvals with County and Caltrans.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

- c. Prepare and issue a Utility Clearance Memorandum listing all conflicts, locations, and Notices to Owner, liability, and estimated completion dates. The Memorandum shall be included in the ROW Certification.
- d. Provide coordination between County, Caltrans, and utility owners.

Utility Deliverables:

- *Re-issued “No Conflicts” Letter, Verification Letter to Owner, Relocation Claim Letter to Owner, Clarification Regarding Utility Undergrounding, Memorandum Regarding Anticipated Bridge Displacements, and Utility Conflict Plans [one (1) for each utility]*
- *Report of Investigation [one (1) for each utility]*
- *Draft Utility Agreement [one (1) for each utility]*
- *Notice to Owner [one (1) for each utility]*
- *Utility Clearance Memo [one (1) for each utility]*

Optional Task 6.2 Utility Potholing (UPDATE)

No change in current scope.

If potholing is deemed necessary, CONTRACTOR shall provide County a scope and cost estimate for this work after the need and scope for potholing is evaluated. An allowance of \$35,000 is proposed for this optional task. This amount is based on an assumed three (3) days of potholing under temporary traffic control, and associated surveying, engineering, and coordination. This Optional Task and associated services shall not be provided unless authorized in writing by County prior to the optional services being provided. Optional tasks completed by CONTRACTOR prior to receiving County’s written authorization to proceed shall not be eligible for compensation.

Assumptions

1. Utility Relocation Design shall be provided by utility owner (i.e., Cal-Am, FAT&T, PG&E, etc.) and is not included in CONTRACTOR’s budget. CONTRACTOR shall design bridge components to accommodate the required utility conduits or casings inside of the bridge.
2. Construction staging for the new bridge shall not be required. Traffic shall be detoured away from bridge construction by means of a detour (shoofly), the design of which is included in CONTRACTOR’s scope.
3. Visualizations and artistic renderings (or updates to the current rendering) shall not be required.
4. Public and Permitting Outreach shall be performed by others (County, BSLT and/or by Denise Duffy & Associates, Inc. (DD&A), the environmental consultant providing services for the Project). CONTRACTOR shall only be required to attend the meetings/presentations noted and shall not be required to prepare meeting materials.
5. DD&A shall prepare the Project Arborist Report, Tree Survey, Tree Removal Plan, and Forest Management Plan.
6. CONTRACTOR shall not be responsible for the development of Floodplain Operation, Maintenance, and Adaptive Management Plan. CONTRACTOR has not included a budget for coordination or review of these documents.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Exclusions

1. Development of Floodplain Operation, Maintenance, and Adaptive Management Plan
2. Species specific Wildlife and Plant Surveys
3. Preparation of an Arborist's Report, Tree Survey, Tree Removal Plan, or Forest Management Plan
4. Bid and Construction Phase Services
5. FEMA LOMR (this is a separate effort after completion of construction)
6. Permit applications or coordination, with the exception of the following:
 - a. Caltrans PR (completed by CONTRACTOR)
 - b. Caltrans Encroachment Permit (completed by CONTRACTOR)
 - c. FEMA CLOMR (completed by CONTRACTOR's sub-contractor, Balance Hydrologics, Inc.)
7. Preparation of Record of Survey Map or setting of monuments

Any newly identified tasks not included herein shall not be conducted by CONTRACTOR until presented to County in writing and with County approval, amended into this Agreement.

A.2 CONTRACTOR shall produce the deliverables as noted above.

Written reports required under this Agreement shall be delivered in electronic format to the following individual:

Karen Riley-Olms
Management Analyst II
County of Monterey, Resource Management Agency
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527
Telephone: (831) 755-5132
Email: Riley-OlmsKA@co.monterey.ca.us

B. PAYMENT PROVISIONS

B.1 COMPENSATION/ PAYMENT

County shall pay an increased amount of **\$484,909.18** for a total not to exceed amount of **\$1,654,896.18** for the performance of all things necessary for or incidental to the performance of work as set forth in this Exhibit A-2. CONTRACTOR's compensation for services rendered shall be based on the Proposed Budget as attached.

CONTRACTOR agrees that pursuant to Labor Code Section 1771, not less than general prevailing rate of per diem wages shall be paid to all workers employed on any public work projects in excess of one thousand dollars (\$1,000).

County and CONTRACTOR agree that CONTRACTOR shall be reimbursed for travel expenses during this Agreement. CONTRACTOR shall receive compensation for travel expenses as per the "County Travel and Business Expense Reimbursement Policy". A copy of the policy is available online at:

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

<https://www.co.monterey.ca.us/home/showdocument?id=69364>

To receive reimbursement, CONTRACTOR shall provide a detailed breakdown of authorized expenses, identifying what was expended and when.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.

B.2 CONTRACTOR'S BILLING PROCEDURES

Payment shall be based upon satisfactory acceptance of each deliverable.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the AGREEMENT. All invoices shall reference the Multi-Year Agreement (MYA) number **MYA 3000*2218**, Project Name and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to RMA-Finance-AP@co.monterey.ca.us:

County of Monterey
Resource Management Agency – Finance Division
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the RMA Finance Division at (831) 755-4800 or via email to: RMA-Finance-AP@co.monterey.ca.us.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS**COST PROPOSAL**

Table 1, below, provides CONTRACTOR's current contracted task budgets and the actual amounts invoiced to date (through Invoice #21898, dated 2/21/2019). The current task budgets listed are per the County's 9/19/18 budget rebalancing Memorandum and CONTRACTOR's subsequent 9/19/18 additional Caltrans Project Report budget request.

Table 1. Current Agreement Budgets, Amounts Billed to Date, and Agreement Remaining

	Agreement Budget	Amount Billed to Date	Budget Remaining
Task 1.1a & 1.1b: Draft Restoration Design (COMPLETE)	\$166,126.19	\$166,122.75	\$3.44
Optional Task 1.1c: Additional Draft Restoration Work (COMPLETE)	\$12,337.81	\$10,892.75	\$1,445.06
Optional Task 1.1d: Additional Environmental Support (COMPLETE)	\$51,000.00	\$51,000.00	\$0.00
Task 1.2a & 1.2b: Draft Causeway Design (COMPLETE)	\$373,061.18	\$373,061.19	(\$0.01)
Optional Task 1.2c: Additional Draft Causeway Work (COMPLETE)	\$25,079.83	\$25,174.33	(\$94.50)
Task 2: FEMA CLOMR	\$61,824.00	\$610.50	\$61,213.50
Task 3: Caltrans Project Report	\$33,539.66	\$33,364.77	\$174.89
Task 4.1a & 4.1b: Final Restoration Design	\$166,979.00	-	\$166,979.00
<i>Optional Task 4.1c: Additional Final Restoration Work</i>	<i>\$12,000.00</i>	-	\$12,000.00
Task 4.2a & 4.2b: Final Causeway Design	\$179,188.82	-	\$179,188.82
<i>Optional Task 4.2c: Additional Final Causeway Work</i>	<i>\$8,180.51</i>	-	\$8,180.51
Task 5: Right-of-Way	\$46,690.00	\$9,799.88	\$36,890.12
Task 6.1: Utility Relocation Coordination	\$10,980.00	\$6,870.01	\$4,109.99
<i>Optional Task 6.2: Utility Potholing</i>	<i>\$23,000.00</i>	-	\$23,000.00
Total	\$1,169,987.00	\$676,896.18	\$493,090.82

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Table 2, below, provides CONTRACTOR's proposed budgets for the work outlined in this Exhibit A-2. This budget is for the remaining work (moving forward).

Table 2. Proposed Budget

	Proposed Budget
Task 2: FEMA CLOMR	\$99,000.00
Task 3: Caltrans Project Report and Hydraulics Report	\$33,000.00
Task 4.1: Final Design (90% & 100%) Design – Restoration	\$251,000.00
<i>Optional Task 4.1c: Additional Final Restoration Work</i>	<i>\$13,000.00</i>
Task 4.2: Final Design (90% & 100%) Design - Causeway Task 4.2a & 4.2b: Final Causeway Design	\$355,000.00
<i>Optional Task 4.2c: Additional Final Causeway Work</i>	<i>\$15,000.00</i>
Task 4.3 Well Design (NEW TASK)	\$28,000.00
Task 5.1: ROW	\$107,000.00
<i>Optional Task 5.2: Additional ROW Work (NEW TASK)</i>	<i>\$20,000.00</i>
Task 6.1: Utility Relocation Coordination	\$22,000.00
<i>Optional Task 6.2: Utility Potholing</i>	<i>\$35,000.00</i>
Total	\$978,000.00
<i>Current Contract Remaining</i>	<i>\$493,090.82</i>
<i>Additional Budget Requested</i>	<i>\$484,909.18</i>

Notes:

1. Specific authorization to proceed is required for Optional Tasks.
2. Optional Tasks 4.1c and 4.2c are budgeted at approximately 5% of the Task 4.1 and 4.2 budgets.

EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS**FEE SCHEDULE****Hourly Rates**

Personnel	FY 20	FY 21	FY 22	FY 23
Principal Engineer	\$240	\$240	\$255	\$255
Director of Civil Engineering	\$205	\$205	\$215	\$215
Senior Civil Engineer	\$195	\$195	\$205	\$205
Senior Land Surveyor	\$195	\$195	\$205	\$205
Civil Engineer/Land Surveyor	\$175	\$175	\$185	\$185
Senior Associate Engineer/Surveyor	\$165	\$165	\$175	\$175
Associate Engineer/Surveyor	\$150	\$150	\$160	\$160
Assistant Engineer/Surveyor	\$130	\$130	\$140	\$140
Senior Engineering/Survey Technician	\$125	\$125	\$135	\$135
Engineering/Survey Technician	\$120	\$120	\$130	\$130
Administrative Support	\$75	\$75	\$80	\$80
Engineering Aide	\$70	\$70	\$75	\$75
Expert Witness/Court Hearing	\$325	\$325	\$340	\$340
One Person Survey Crew (Prevailing Wage)	\$210	\$210	\$220	\$220
Two Person Survey Crew (Prevailing Wage)	\$350	\$350	\$370	\$370

Reimbursable Costs

Category	FY 20	FY 21	FY 22	FY 23
Professional Services by Others	Cost +10%	Cost +10%	Cost +10%	Cost +10%
Materials, Postage, Reproduction, Telephone	Cost +10%	Cost +10%	Cost +10%	Cost +10%
In-House Large Format Plotting/Copies (Black/White) (per square foot)	\$0.54	\$0.54	\$0.57	\$0.57
In-House Plots, Prints, Copies (Color/Special)	Rates vary. Available upon request.			
In-House Prints/Copies (Black/White) (per sheet)				
8.5x11	\$0.10	\$0.10	\$0.10	\$0.10
11x17	\$0.54	\$0.54	\$0.57	\$0.57

*FY (Fiscal Year): July 1 – June 30)

This page intentionally left blank

Attachment F

This page intentionally left blank.

**AMENDMENT NO. 3
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
WHITSON AND ASSOCIATES, INC. DBA WHITSON ENGINEERS**

THIS AMENDMENT NO. 3 to Professional Services Agreement No. A-13085 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Whitson and Associates, Inc. dba Whitson Engineers (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into Professional Services Agreement No. A-13085 with County on April 14, 2016 (hereinafter, "Agreement") to provide a Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (hereinafter, "Project") for a term beginning April 13, 2016 through December 31, 2017 for an amount not to exceed \$1,113,987; and

WHEREAS, Agreement was amended by the Parties on January 3, 2018 (hereinafter, "Amendment No. 1") to extend the term for approximately six (6) additional months through June 18, 2018 with no associated dollar amount increase; and

WHEREAS, Agreement was amended by the Parties on March 2, 2018 (hereinafter, "Amendment No. 2", including Exhibit A-1 - Scope of Services/Payment Provisions and Exhibit E - State Coastal Conservancy Agreement No. 17-024) to extend the term for approximately eighteen (18) additional months through December 31, 2019 and to increase the amount by \$56,000 which resulted in a total not to exceed amount of \$1,169,987; and

WHEREAS, the comprehensive evaluation of Project alternatives and potential impacts have been completed; and

WHEREAS, the environmental review process and technical analysis for the Project has been delayed due to on-going coordination with adjacent landowners and regulatory agencies; and

WHEREAS, the term of Exhibit B, SAP Contract No. 4600010665, of Agreement has been extended to December 31, 2022; and

WHEREAS, Exhibit C, Wildlife Conservation Board Grant Agreement WC-1059CF, and Exhibit E, State Coastal Conservancy Agreement No. 17-024, of Agreement are hereby removed from the Agreement in their entirety; and

WHEREAS, additional time is necessary to allow County to identify new funding and for the Parties to identify new tasks that have resulted from the comprehensive evaluation of the Project; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term for three (3) additional years to December 31, 2022 with no associated dollar amount increase to allow CONTRACTOR to continue with the Project identified in the Agreement and as amended by this Amendment No. 3.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from April 13, 2016 to December 31, 2022, unless sooner terminated pursuant to the terms of this Agreement.

2. Amend Paragraph 4, "Additional Provisions/Exhibits", to add "Exhibit B-1 – Amendment No. 1 to SAP Contract No. 4600010665", effective June 18, 2018.
3. Amend Paragraph 4, "Additional Provisions/Exhibits", to delete "Exhibit C - Wildlife Conservation Board Grant Agreement WC-1059CF", effective January 1, 2019 and "Exhibit E - State Coastal Conservancy Agreement No. 17-024", effective January 1, 2020.
4. Amend Section 8.02, "Indemnification for Design Professional Services Claims", of Paragraph 8, "Indemnification", to read as follows:

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 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 COUNTY, or defect in a design furnished by COUNTY, but in no event shall the amount of such CONTRACTOR's liability exceed such CONTRACTOR's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against COUNTY is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.

5. Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number #3000*2218, Project name and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to RMA-Finance-AP-GP@co.monterey.ca.us:

County of Monterey
Resource Management Agency (RMA) – Finance Division
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the RMA Finance Division at (831) 755-4800 or via email to: RMA-Finance-AP-GP@co.monterey.ca.us.

6. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
7. This Amendment No. 3 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
8. The recitals to this Amendment No. 3 are incorporated into the Agreement and this Amendment No. 3.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 3 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR*

By:

new 12/9/19 [Signature]

Carl P. Holm, AICP
RMA Director

Date:

11 DEC 2019

Approved as to Form and Legality

Office of the County Counsel-Risk Manager

Leslie J. Girard, County Counsel-Risk Manager

By:

[Signature]

Brian P. Briggs
Deputy County Counsel

Date:

12-4-19

Approved as to Fiscal Provisions

By:

[Signature]

Auditor/Controller

Date:

12/5/2019

Approved as to Indemnity and Insurance Provisions

Office of the County Counsel-Risk Manager

Leslie J. Girard, County Counsel-Risk Manager

By:

Name:

Title:

Date:

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

Whitson and Associates, Inc.
dba Whitson Engineers
Contractor's Business Name

By:

[Signature]

(Signature of Chair, President or Vice President)

Its:

Richard Weber, President
(Print Name and Title)

Date:

11/25/19

By:

[Signature]
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

Its:

Kimberley Woltman, CFO
(Print Name and Title)

Date:

11/25/19

STATE OF CALIFORNIA
THE NATURAL RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

Amendment No. 1

To

FUNDING AGREEMENT

BETWEEN

THE STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES

AND

MONTEREY COUNTY

FOR THE

**CARMEL RIVER FLOODPLAIN RESTORATION AND ENVIRONMENTAL
ENHANCEMENT PROJECT**

**FUNDED UNDER THE
FLOOD CORRIDOR PROGRAM GRANT (CONTRACT NO. 4600010665)**

EXHIBIT B-1 – AMENDMENT NO. 1 TO SAP CONTRACT NO. 4600010665

SAP Contract No. 4600010665

THIS AMENDMENT NO. 1 to the AGREEMENT, entered into by and between the State of California, acting by and through the Department of Water Resources (hereinafter referred to as the "State") and Monterey County (hereinafter referred to as the "Grantee"), duly organized, existing and acting pursuant to the laws thereof, which parties do hereby agree as follows:

The original Agreement dated June 18, 2014, remains binding with the following modifications:

1. SECTION 2 TERM OF AGREEMENT is amended as follows:

Replace the first two sentences with "This Agreement shall remain in effect until December 31, 2022."

2. SECTION 7 METHOD OF PAYMENT

Replace "State of California, Department of Water Resources, 3463 El Camino Avenue, Room 200, Sacramento, CA 95821, to the attention of David Wright, Project Manager for the State." with "State of California, Department of Water Resources, 3310 El Camino Avenue, Suite 145, Sacramento, CA 95821, to the attention of Andrew Isner, c/o Cheryl Bates, Flood Corridor Program."

3. SECTION 13 PROJECT OFFICIALS AND NOTICES is amended as follows:

Replace "David Wright" as the State Project Manager with "Andrew Isner,"
Replace "Benny Young" as the Grantee's Program Manager with "Carl Holm"
Replace "John Ford" as the Grantee Project Manager with "Melanie Beretti."

The sixth paragraph providing the addresses for notice shall be amended as follows:

Notices required to be given to the State in writing by the Grantee under this Agreement shall be sent to:

Andrew Isner, c/o Cheryl Bates
California Department of Water Resources
3310 El Camino Avenue, Suite 145
Sacramento, CA 95821

Notices required to be given to the Grantee in writing by the State under this Agreement shall be sent to:

Carl P. Holm, Director
Monterey County Resource Management Agency
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901-4527

4. EXHIBIT C, III, Task 4, Subtask 4.1 is amended as follows:

Subtask 4.1 Preparation and Review of CEQA/NEPA Document

An environmental review in accordance with CEQA and NEPA will be prepared. The County of Monterey will function as Lead agency for the CEQA document and the

EXHIBIT B-1 – AMENDMENT NO. 1 TO SAP CONTRACT NO. 4600010665

SAP Contract No. 4600010665

United State Fish and Wildlife Service, in cooperation with Caltrans will coordinate the NEPA document.

- Deliverable: Final EIR.

5. EXHIBIT C, IV. SCHEDULE is amended as follows:

Exhibit C, IV. Schedule is replaced in its entirety with the Exhibit C, IV. Schedule Attached. End date for the project has been changed to December 31, 2022.

6. IN WITNESS HEREOF is amended as follows:

Replace "Benny Young" with "Carl P. Holm"
Replace "Cynthia L. Hasson" with "Wendy S. Strimling"
Replace "Keith Swanson" with "Jon Ericson"

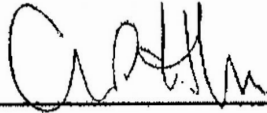
All other terms and conditions of the Agreement, as amended, remain unchanged.

EXHIBIT B-1 – AMENDMENT NO. 1 TO SAP CONTRACT NO. 4600010665

SAP Contract No. 4600010665

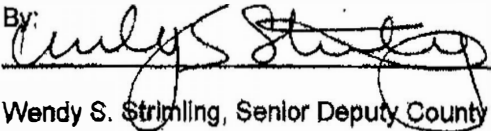
IN WITNESS WHEREOF, the following authorized representatives have executed this Amendment as of the date of the final signature below.

**GRANTEE
MONTEREY COUNTY**

By: 
Carl P. Holm, Director Resource Management Agency


Date: 6/5/2018

Approved as to Legal Form and Sufficiency

By: 
Wendy S. Strimling, Senior Deputy County Counsel

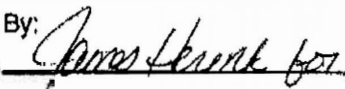
Date: 6/5/18

**STATE OF CALIFORNIA, DEPARTMENT
OF WATER RESOURCES**

By:  for
Jon Ericson, Chief, Division of Flood Management

Date: 06/18/2018

Approved as to Legal Form and Sufficiency

By:  for
Robin E. Brewer, Assistant Chief Counsel

Date: 6-14-18



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/14/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Dealey, Renton & Associates P. O. Box 12675 Oakland CA 94604-2675	CONTACT NAME: Jo Lusk	
	PHONE (A/C, No., Ext): 510-465-3090	FAX (A/C, No.): 510-452-2193
	E-MAIL ADDRESS: Certificates@dealeyrenton.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Travelers Property Casualty Company of America	25674
	INSURER B: NAVIGATORS INSURANCE COMPANY	42307
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 964604402 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	6806H441757	11/1/2019	11/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	BA3E066334	11/1/2019	11/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			CUP8D068578	11/1/2019	11/1/2020	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	Y	UB7J637993	11/1/2019	11/1/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liability			CM19DPL054051IV	11/1/2019	11/1/2020	\$1,000,000 \$3,000,000 per Claim Annual Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
County of Monterey, its agents, officers and employees are named as an additional insured as respects general liability and auto liability as required per written contract or agreement. General/auto Liability is Primary/Non-Contributory per attached endorsements.

CERTIFICATE HOLDER	CANCELLATION 30 Day Notice of Cancellation
County of Monterey 1441 Schilling Place, South 2nd Floor Salinas CA 93901	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Names of Additional Insured Person(s) or Organization(s):

Any person or organization that you agree in a written contract, on this Coverage Part, provided that such written contract was signed and executed by you before, and is in effect when the "bodily injury" or "property damage" occurs or the "personal injury" or "advertising injury" offense is committed.

Location of Covered Operations:

Any project to which an applicable written contract with the described in the Name of Additional Insured Person(s) or Organization(s) section of this Schedule applies.

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

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

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

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

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

This insurance does not apply to "bodily injury" or "property damage" occurring, or "personal injury" or "advertising injury" arising out of an offense committed, after:

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of **Additional Insured** Person(s) Or Organization(s):

Any person or organization that you agree in a written contract to include as an additional insured on this Coverage Part for "bodily injury" or "property damage" included in the "products-completed operations hazard", provided that such contract was signed and executed by you before, and is in effect when, the bodily injury or property damage occurs.

Location And Description Of Completed Operations

Any project to which an applicable contract described in the Name of Additional Insured Person(s) or Organization(s) section of this Schedule applies.

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

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

location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**OTHER INSURANCE – ADDITIONAL INSURED –
PRIMARY AND NON-CONTRIBUTORY WITH RESPECT TO
CERTAIN OTHER INSURANCE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is added to Paragraph 4. a., **Primary Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

However, if you specifically agree in a written contract or agreement that the insurance afforded to an additional insured under this 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 that other insurance**, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought is caused by an "occurrence" that takes place; and
- (2) The "personal injury" or "advertising injury" for which coverage is sought arises out of an offense that is committed;

subsequent to the signing and execution of that contract or agreement by you.

POLICY NUMBER: 6806H441757

COMMERCIAL GENERAL LIABILITY

ISSUED DATE: 11/14/2019

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Any person or organization that you agree in a written contract

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

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

We **waive** any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or

damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazards." This waiver applies only to the person or organization shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER 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" for Covered Autos Liability Coverage 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.

Named Insured: Whitson and Associates, Inc.

Endorsement Effective Date: 11/1/2019

SCHEDULE

Name Of Person(s) Or Organization(s): County of Monterey, its agents, officers and employees

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

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph A.1. of Section II – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph D.2. of Section I – Covered Autos Coverages of the Auto Dealers Coverage Form.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE – PRIMARY AND NON-CONTRIBUTORY WITH OTHER INSURANCE

This endorsement modifies insurance provided under the following:
BUSINESS AUTO COVERAGE FORM

SCHEDULE OF ADDITIONAL INSURED PERSONS OR ORGANIZATIONS

**COUNTY OF MONTEREY, ITS AGENTS, OFFICERS
AND EMPLOYEES**

COUNTY OF MONTEREY
1441 SCHILLING PLACE, SOUTH 2ND FLOOR
SALINAS CA 93901

PROVISIONS

1. The following is added to Paragraph c. in A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

This includes any person or organization designated in the Schedule Of Additional Insured Persons Or Organizations who you are required under a written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that designated person's or organization's liability for the conduct of another "insured".

2. The following is added to Paragraph 5., **Other Insurance**, in B., **General Conditions**, of SECTION IV – BUSINESS AUTO CONDITIONS:

Regardless of the provisions of paragraph a. and paragraph d. of this part 5. **Other Insurance**, this insurance is primary to and non-contributory with applicable other insurance under which the person or organization designated in the Schedule Of Additional Insured Persons Or Organizations is the first named insured when the written contract or agreement between you and that designated person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.



**WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY**

ENDORSEMENT WC 99 03 76(00) — 001

POLICY NUMBER: UB7J637993

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS
ENDORSEMENT CALIFORNIA
(BLANKET WAIVER)**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

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

The additional premium for this endorsement shall be 3.00 % of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization

County of Monterey
1441 Schilling Place, South 2nd Floor
Salinas CA 93901

Job Description

County of Monterey, its agents, officers and employees

DATE OF ISSUE: 11/14/2019

ST ASSIGN: CA

017106

Attachment G

This page intentionally left blank.



Monterey County Board of Supervisors

168 West Allsal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Agreement Nos. A-13085; A-13086; and A-12775; A-13835

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

- a. Approved Amendment No. 2 to Professional Services Agreement No. A-13085 with Whitson and Associates, Inc. dba Whitson Engineers (Whitson) to include additional services for the comprehensive evaluation of Project alternatives and potential impacts to complete the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, in Carmel, to increase the not to exceed amount by \$56,000 for a total amount not to exceed \$1,169,987, and to extend the expiration date for approximately eighteen (18) months for a revised term of April 13, 2016 to December 31, 2019;
- b. Approved Amendment No. 1 to Reimbursement Agreement No. A-13086 with The Big Sur Land Trust (BSLT), a California nonprofit public benefit corporation, to allow reimbursement to Monterey County for costs incurred by Whitson under Professional Services Agreement No. A-13085 as amended, to increase the not to exceed amount by \$56,000 for a total amount not to exceed \$636,000 with no extension to the term of April 14, 2016 until full reimbursement;
- c. Approved Amendment No. 4 to Professional Services Agreement No. A-12775 with Denise Duffy & Associates, Inc. (DD&A) to include additional biological surveys and complete environmental review of the CRRFREE Project, in Carmel, to increase the not to exceed amount by \$187,488 for a total amount not to exceed \$562,727, and to extend the expiration date for approximately eighteen (18) months for a revised term of July 29, 2014 to December 31, 2019;
- d. Approved a Reimbursement Agreement with BSLT, a California nonprofit public benefit corporation, to allow reimbursement to Monterey County for costs incurred by DD&A under Professional Services Agreement No. A-13835 as amended, in the amount not to exceed \$187,488, for a term effective upon latest date of signature until full reimbursement; and
- e. Authorized the Resource Management Agency Director to execute Amendment No. 2 to Professional Services Agreement No. A-13085 with Whitson and associated Amendment No. 1 to Reimbursement Agreement No. A-13086 with BSLT, and Amendment No. 4 to Professional Services Agreement No. A-12775 with DD&A and associated Reimbursement Agreement with BSLT, and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts

PASSED AND ADOPTED on this 27th day of February 2018, by the following vote, to wit:

AYES: Supervisors Alejo, Salinas, Phillips and Parker
NOES: None

ABSENT: Supervisor Adams

I, Nicholas E. Chiulos, Acting 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 80 for the meeting February 27, 2018.

Dated: February 28, 2018
Corrected: March 1, 2016.
File ID: A 18-045

Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock Deputy

**AMENDMENT NO. 2
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
WHITSON AND ASSOCIATES, INC. DBA WHITSON ENGINEERS**

THIS AMENDMENT NO. 2 to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Whitson and Associates, Inc. dba Whitson Engineers (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement with County on April 14, 2016 (hereinafter, "Agreement") to provide a Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (hereinafter, "Project") for a term beginning April 13, 2016 through December 31, 2017 for an amount not to exceed \$1,113,987; and

WHEREAS, Agreement was amended by the Parties on January 3, 2018 (hereinafter, "Amendment No. 1") to extend the term for approximately six (6) additional months through June 18, 2018 with no associated dollar amount increase; and

WHEREAS, services for the Project have not been completed due to delays in the environmental review process and technical analysis as a result of on-going coordination with adjacent landowners and regulatory agencies; and

WHEREAS, The Big Sur Land Trust received a State Coastal Conservancy Grant to allow for additional reimbursement to the County for completion of the Project; and

WHEREAS, the Parties wish to amend the Agreement to include additional services as set forth in Exhibit A-1, attached hereto, for the comprehensive evaluation of Project alternatives and potential impacts; and

WHEREAS, additional time and funding are necessary to allow for the completion of the Project in accordance with the new grant provisions; and

WHEREAS, the Parties wish to amend the Agreement to extend the term for approximately eighteen (18) additional months to December 31, 2019 and increase the Agreement amount by \$56,000 for a total not to exceed amount of \$1,169,987 to allow CONTRACTOR to continue to provide services identified in the Agreement as previously amended and as amended by this Amendment No. 2.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 1, "Services to be Provided", to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A and A-1** in conformity with the terms of this Agreement, as amended.

2. Amend Paragraph 2, "Payments by County", to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A and A-1**, subject to the limitations set forth in this Agreement, as amended. The total amount payable by County to CONTRACTOR under this Agreement, as amended, shall not exceed the sum of \$1,169,987.

3. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from April 13, 2016 to December 31, 2019, unless sooner terminated pursuant to the terms of this Agreement.

4. Amend Paragraph 4, "Additional Provisions/Exhibits", to add "Exhibit A-1, Scope of Services/Payment Provisions" and "Exhibit E, State Coastal Conservancy Agreement No. 17-024".

5. The "Delivery Dates" referenced in the Agreement, Exhibit A – Scope of Services/Payment Provisions, are hereby amended to extend through December 31, 2019, to conform to the amended term of the Agreement.

6. All other terms and conditions of the Agreement, as previously amended, remain unchanged and in full force.

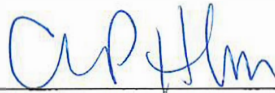
7. This Amendment No. 2 and the previous Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

8. The recitals to this Amendment No. 2 are incorporated into the Agreement and this Amendment No. 2.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

By: _____



Carl P. Holm, AICP
RMA Director

Date: _____

3/2/2018

**Approved as to Form and Legality
Office of the County Counsel**

By: _____

Wendy S. Strimling
Senior Deputy County Counsel

Date: _____

Approved as to Fiscal Provisions

By: _____

Auditor/Controller

Date: _____

Approved as to Indemnity, Insurance Provisions

By: _____

Risk Management

Date: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managing members. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

CONTRACTOR*

Whitson and Associates, Inc.
dba Whitson Engineers

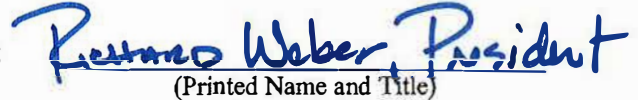
Contractor's Business Name

By: _____



(Signature of Chair, President or Vice President)

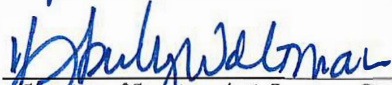
Its: _____


(Printed Name and Title)

Date: _____

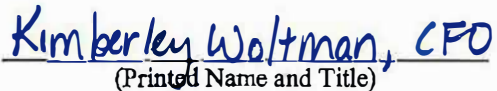
2/16/18

By: _____



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

Its: _____


(Printed Name and Title)

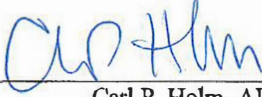
Date: _____

2/16/18

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

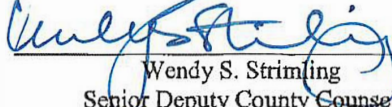
COUNTY OF MONTEREY

CONTRACTOR*

By: 
Carl P. Holm, AICP
RMA Director

Date: 3/2/2018

**Approved as to Form and Legality
Office of the County Counsel**

By: 
Wendy S. Strimling
Senior Deputy County Counsel

Date: 2/22/18

Approved as to Fiscal Provisions

By: 
Auditor/Controller

Date: 2/23/18

Approved as to Indemnity, Insurance Provisions

By: _____
Risk Management

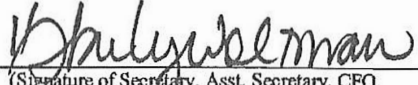
Date: _____

Whitson and Associates, Inc.
dba Whitson Engineers
Contractor's Business Name

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

Its: Ricardo Weber, President
(Printed Name and Title)

Date: 2/16/18

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

Its: Kimberley Woltman, CFO
(Printed Name and Title)

Date: 2/16/18

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managing members. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

**To Agreement by and between
County of Monterey, hereinafter referred to as "County"
and
Whitson and Associates, Inc. dba Whitson Engineers,
hereinafter referred to as "CONTRACTOR"**

This Exhibit A-1 supplements Exhibit A of this Agreement.

A. SCOPE OF SERVICES

- A.1** CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work to provide for the Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (hereinafter, "Project"), as set forth in Exhibit A and as set forth in this Exhibit A-1 as described below:

TASK 1: DRAFT FINAL (60%) DESIGN

1.1.d: Optional Task – Additional Engineering Support for Environmental Review

Based on new information available and outcomes of ongoing coordination with County, California Department of Parks and Recreation (DPR), Carmel Area Wastewater District (CAWD) and regulatory agencies, CONTRACTOR shall provide additional engineering support services for the environmental review process, as requested by County. Services may include but are not limited to technical analysis and response to agency or stakeholder comments, developing and evaluating Project alternatives, and revisions to the Environmental Document (ED).

Should a formal alternatives analysis be requested for budget purposes, four (4) Project alternatives are assumed, of which two (2) are assumed to be carried forward for analysis. CONTRACTOR shall work with the Project Team to develop descriptions and analysis figures for each Project alternative, and shall review language developed by County's Environmental Consultant, Denise Duffy & Associates, Inc. (DD&A), for technical accuracy, as requested. CONTRACTOR shall perform hydraulic modeling for the Project alternatives carried forward and develop a technical memorandum summarizing the findings of the analysis.

Total estimated cost of Optional Task 1.1.d is \$51,000.

CONTRACTOR shall not access the funds for this Optional Task without prior express written consent from County.

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

TASK 3: CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) PROJECT REPORT (PR) AND HYDRAULIC REPORT

Task 3.2: Optional Task – Caltrans PR Revisions

CONTRACTOR shall revise and resubmit PR based on revisions to the ED. Updates shall include but are not limited to updating references to the ED and updating the discussion of Project alternatives.

Total estimated cost of Optional Task 3.2 is \$5,000.

- CONTRACTOR shall not access the funds for this Optional Task without prior express written consent from County.

A.2 CONTRACTOR shall provide the following deliverables:

Task 1.1.d: Optional Task – Additional Engineering Support for Environmental Review

- One (1) 11" X 17" graphic for each Project alternative carried forward, if applicable
- Technical memorandums summarizing analysis, if applicable

Task 3.2: Optional Task – Caltrans PR Revisions

- Updated Caltrans PR

All written reports required under this Agreement must be delivered in electronic format to the following individual:

Melanie Beretti
Special Programs Manager
County of Monterey, Resource Management Agency
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527
Email: berettim@co.monterey.ca.us

Optional Tasks detailed in this Exhibit A-1 of the Agreement shall not be provided unless authorized in writing by County's Project Manager prior to the Optional Tasks being provided.

B. PAYMENT PROVISIONS

B.1 COMPENSATION/ PAYMENT

County shall pay an increased amount of **\$56,000** for a total not to exceed amount of **\$1,169,987** for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR's compensation for services rendered shall be based on the following Fee Schedule or in accordance with the following terms:

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

Category	Hourly Rates		
	FY18	FY19	FY20
Principal Engineer	\$220	\$220	\$240
Director of Civil Engineering	\$190	\$190	\$205
Senior Civil Engineer	\$180	\$180	\$195
Senior Land Surveyor	\$180	\$180	\$195
Civil Engineer / Land Surveyor	\$160	\$160	\$175
Senior Associate Engineer/Surveyor	\$150	\$150	\$165
Associate Engineer/Surveyor	\$140	\$140	\$150
Assistant Engineer/Surveyor	\$120	\$120	\$130
Senior Engineering/Survey Technician	\$115	\$115	\$125
Engineering/Survey Technician	\$110	\$110	\$120
Administrative Support	\$70	\$70	\$75
Engineering Aide	\$65	\$65	\$70
Expert Witness/Court Hearing	\$300	\$300	\$325
One Person Survey Crew (Prevailing Wage)	\$175	\$175	\$190
Two Person Survey Crew (Prevailing Wage)	\$270	\$270	\$290
Three Person Survey Crew (Prevailing Wage)	\$380	\$380	\$410

Category	Reimbursable Costs		
	FY18	FY19	FY20
Professional Services by Others	Cost +10%	Cost +10%	Cost +10%
Materials, Postage, Reproduction, Telephone	Cost +10%	Cost +10%	Cost +10%
In-House Large Format Plotting/Copies (B/W) (per square foot)	\$ 0.50	\$0.50	\$0.54
In-House Plots, Prints Copies (Color/Special)	Rates vary, available upon request-----		
In-House Prints/Copies (B/W) (per sheet) 8.5x11	\$ 0.10	\$0.10	\$0.10
11x17	\$ 0.50	\$0.10	\$0.54

FY = Fiscal Year (July 1 – June 30)

CONTRACTOR agrees that pursuant to Labor Code Section 1771, not less than general prevailing rate of per diem wages shall be paid to all workers employed on any public work projects in excess of one thousand dollars (\$1,000).

County and CONTRACTOR agree that CONTRACTOR shall be reimbursed for travel expenses during this Agreement. CONTRACTOR shall receive compensation for travel expenses as per the "County Travel Policy". A copy of the policy is available online at www.co.monterey.ca.us/auditor/policies.htm. To receive reimbursement, CONTRACTOR must provide a detailed breakdown of authorized expenses, identifying what was expended and when.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.

EXHIBIT A-1 – SCOPE OF SERVICES/PAYMENT PROVISIONS

B.2 CONTRACTOR'S BILLING PROCEDURES

Payment shall be based upon satisfactory acceptance of the work completed per tasks outlined in the CONTRACTOR's monthly invoice and activity report, which are due by the tenth (10th) day of each month for work performed during the prior month.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Project name and associated Purchase Order (PO) number and an original hardcopy shall be sent to the following:

County of Monterey
Resource Management Agency (RMA) – Finance Division
1441 Schilling Place, 2nd Floor South
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement shall be directed to the RMA Finance Division at (831) 755-4800.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed. Claims for payment of services for any given fiscal year (July 1 to June 30) must be submitted to the County by July 31 and within 12 months after the calendar month in which services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its sub-consultants.

EXHIBIT E - STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

STATE OF CALIFORNIA
STANDARD AGREEMENT
 Std. 2 (Grant - Rev 08/08)

AGREEMENT NUMBER 17-024	AM. NO.
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NO. 94-2473415	

THIS AGREEMENT, made and entered into this 15th day of November, 2017,
 in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting
Executive Officer State Coastal Conservancy, hereafter called the Conservancy, and
Big Sur Land Trust, hereafter called the Grantee.
 The Grantee, for and in consideration of the covenants, conditions, agreements, and stipulations of the Conservancy hereinafter expressed
 does hereby agree as follows:

SCOPE OF AGREEMENT

Pursuant to Chapter 3 and 5.5 of Division 21 of the California Public Resources Code, the State Coastal Conservancy ("the Conservancy") hereby grants to the Big Sur Land Trust ("the grantee") a sum not to exceed \$245,000 (two hundred forty-five thousand dollars), subject to this agreement. The grantee shall use these funds to prepare an environmental review document and related studies for permitting of the Carmel River Floodplain Restoration and Environmental Enhancement Project ("the project") for the Lower Carmel River Floodplain area of Carmel-By-The-Sea, Monterey County as shown on Exhibit A, which is incorporated by reference and attached.

(Continued on following pages)

The provisions on the following pages constitute a part of this agreement.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

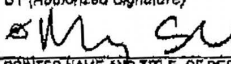
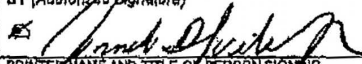

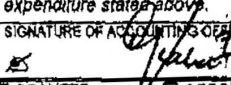
STATE OF CALIFORNIA		GRANTEE	
AGENCY State Coastal Conservancy	GRANTEE (If other than an individual, state whether a corporation, partnership, etc.) Big Sur Land Trust		
BY (Authorized Signature) 	BY (Authorized Signature) 		
PRINTED NAME AND TITLE OF PERSON SIGNING Samuel Schuchat, Executive Officer	PRINTED NAME AND TITLE OF PERSON SIGNING Jeannette Tuitele-Lewis, President/CEO		
ADDRESS & PHONE NUMBER 1515 Clay Street, 10 th Floor Oakland, CA 94612 Phone: (510) 286-1015	ADDRESS 509 Hartnell Street Monterey, CA 93940 Phone: (831) 625-5523		
AMOUNT ENCUMBERED BY THIS DOCUMENT \$245,000.00	PROGRAM/CATEGORY (CODE AND TITLE) Local Assistance (OPTIONAL/USE) Carmel River Floodplain Restoration	FUND TITLE Federal Trust Fund	I certify that this agreement is exempt from Department of General Services' approval.  Erlinda Cruz Procurement and Contracts Manager
PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT \$0-	ITEM 3760-101-089000000 (F10AP00825/15.614)(USFWS)	CHAPTER 10	
TOTAL AMOUNT ENCUMBERED TO DATE \$245,000.00	OBJECT OF EXPENDITURE (CODE AND TITLE) Enhancement	STATUTE 2015	
		FISCAL YEAR 15/16	
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above. SIGNATURE OF ACCOUNTING OFFICER  DATE <u>11/01/2017</u>			
<input checked="" type="checkbox"/> GRANTEE <input type="checkbox"/> ACCOUNTING <input type="checkbox"/> PROJECT MANAGER <input type="checkbox"/> CONTROLLER <input type="checkbox"/> STATE AGENCY			

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 2

SCOPE OF AGREEMENT (Continued)

Grantee, in collaboration with the County of Monterey, shall prepare final joint environmental documentation, including all required assessments and studies, for the Carmel River Floodplain Restoration and Environmental Enhancement Project (CRFREE), pursuant to the California Environmental Quality Act (CEQA) and pursuant to the National Environmental Policy Act (NEPA). It is contemplated that the environmental documentation required under CEQA and NEPA may consist of a joint environmental impact report/environmental impact statement (EIR/EIS) or an EIR/Environmental Assessment. In preparing the environmental documentation, grantee shall solicit comments and input from grant funding agencies and other responsible agencies by issuance of an administrative draft prior to publishing a draft for public review. The County of Monterey will be the lead agency for CEQA and the United States Fish and Wildlife Service, with Caltrans, will be the lead agency under NEPA. Grantee shall also provide project management, including agency coordination, fund raising and public engagement.

The grantee shall carry out the project in accordance with this agreement and a work program as provided in the "WORK PROGRAM" section, below. The grantee shall provide any funds beyond those granted under this agreement which are needed to complete the project.

CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT

The grantee shall not commence the project and the Conservancy shall not be obligated to disburse any funds under this agreement until the following conditions precedent have been met:

1. The board of trustees of the grantee has adopted a resolution designating positions whose incumbents are authorized to negotiate and execute this agreement and amendments to it on behalf of the grantee.
2. The Executive Officer of the Conservancy ("Executive Officer") has approved in writing:
 - a. The work program for the project as provided in the "WORK PROGRAM" section, below.
 - b. All contractors that the grantee intends to retain in connection with the project.
3. The grantee has provided written evidence to the Conservancy that the grantee has provided for required insurance coverage, including additional insured endorsement, as described in the "INSURANCE" section, below.
4. The grantee has completed and returned to the Conservancy the Federal Sub-Awardee Questionnaire.

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 3

CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT (Continued)

In carrying out the project, the grantee shall:

1. Complete final environmental documentation under CEQA and NEPA for the CRFREE, as that project is described in the Conservancy's 2017 application for Federal financial assistance, amendment, entitled "2010 Coastal Wetlands, Carmel River Floodplain Restoration and Environmental Enhancement Project", which included an updated narrative description of the CRFREE. A copy of the application with included narrative project description has been provided to the grantee
2. Comply with all applicable terms and conditions that may be required by the FWS NCWC Grant to the Conservancy or that may be necessary to enable the Conservancy to comply with terms and conditions of the grant (see "NCWC GRANT REQUIREMENTS" section, below).

TERM OF AGREEMENT

This agreement shall take effect when signed by both parties and received in the office of the Conservancy together with the resolution described in the "CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT" section of this agreement. An authorized representative of the grantee shall sign the first page of the originals of this agreement in ink.

This agreement shall run from its effective date through December 31, 2019 ("the termination date") unless otherwise terminated or amended as provided in this agreement. However, all work shall be completed by June 1, 2019 ("the completion date").

AUTHORIZATION

The signature of the Executive Officer of the Conservancy on this agreement certifies that at its June 15, 2017 meeting, the Conservancy adopted the resolution included in the staff recommendation attached as Exhibit B. This agreement is executed under that authorization.

Funding for the project under this agreement is being provided by a grant (the "NCWC Grant") to the Conservancy by the U. S. Fish and Wildlife Service under its National Coastal Wetlands Conservation Grant Program. The Executive Officer's signature on this agreement acknowledges that the NCWC Grant has been awarded specifically for the work under this agreement. In carrying out the project work under this agreement the grantee shall comply with

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 4

AUTHORIZATION (Continued)

all applicable requirements imposed by the NCWC Grant, as detailed in "NCWC Grant Requirements" section, below.

NCWC GRANT REQUIREMENTS

In accordance with the requirements of the NCWC Grant, any work under this agreement is subject to additional provisions under that grant. With respect to such work, the grantee shall comply with all award requirements under the NCWC Grant, including all of those requirements (collectively "Award Requirements") found in the following NCWC Grant documents:

- A. United States Fish and Wildlife Service ("USFWS") Notice of Notice of Federal Assistance Award for C-31-L-1, "Odello East Floodplain Restoration Project, Monterey County, CA" dated August 27, 2010 (the "Award Notice"), as amended by USFWS Notice of Federal Assistance Award for F10AP00825 (C-31-L-1) Amendment 1, dated January 16, 2014 ("Award Notice, Am. 1"), and as further amended by USFWS "Notice of Amendment to Grant Award for FBMS# F10AP00825 (C-31-L-1) Amendment 2 ("Award Notice, Am. 2"). These NCWC Grant award notices are collectively attached to this agreement as Exhibit C and incorporated by this reference. USFWS issued the Award Notice, Am. 2 based on the Conservancy's 2017 application for Federal financial assistance amendment entitled "2010 Coastal Wetlands, Carmel River Floodplain Restoration and Environmental Enhancement Project", which included an updated narrative description of the CRFREE (the "Grant Proposal"), to which the NCWC Grant is to be applied. Although an important element of the Notice of Award, Am. 2, the Grant Proposal is not attached to this agreement because of the substantial size of the document. Instead, an electronic copy of the Grant Proposal has been separately provided to the grantee and the Grant Proposal is incorporated into this agreement by this reference.
- B. USFWS, Financial Assistance Award Terms and Conditions, Effective Date January 6, 2017, found on the internet at this address:
<https://www.fws.gov/grants/pdfs/USFWSFAAwardTermsandConditions01-06-17B.pdf>

The grantee shall carefully review all of the Award Requirements and, as applicable, comply with those requirements. The Award Requirements include, *but are not limited to*, the following:

1. The "Special Conditions and Provisions" of the Award Notice, Award Notice, Am. 1, and Award Notice Am. 2.

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 5

NCWC GRANT REQUIREMENTS (Continued)

The grantee shall provide to the Conservancy the information necessary for the Conservancy to comply with the following or any other applicable requirements. The information may be combined with information otherwise required under this agreement.

- a. Interim and final performance and financial reports. (See Award Notice, Am. 2, page 3, "Reporting Requirements").
2. Grantee shall carry out the project consistent with the description set forth in the Grant Proposal, which is included in Exhibit C.
3. USFWS, Financial Assistance Award Terms and Conditions, Effective Date January 6, 2017, found on the internet at this address: <https://www.fws.gov/grants/pdfs/USFWSFAAawardTermsandConditions01-06-17B.pdf> including, *but not limited to*:
 - a. Requirements of subgrantees under 2 CFR §1400 – Government wide Debarment and Suspension (Non-procurement).
 - b. Requirements of 2 CFR §1401, Drug-Free Workplace.
 - c. Requirements under 43 CFR Part 18, New Restrictions on Lobbying, including executing and returning to the State the Certification Regarding Lobbying:
http://apply07.grants.gov/apply/forms/sample/GG_LobbyingForm-V1.1.pdf
 - d. Compliance with the requirements of the federal Administrative Requirements and Audit Requirements found at 2 C.F.R. Part 200, Subparts A through E. These requirements include, *but are not limited to*, the following:
 - i. Record retention and access requirements under 2 CFR §200.333 et seq.
 - ii. Procurement Standards, found at 2 CFR §§200.317– 200, which require grantee to: use specified methods of procurement (§200.320); take all specified affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible (§200.321); perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold, currently \$150,000, but periodically adjusted for inflation (§200.323); and to incorporate into any procurement contract the applicable provisions described in Appendix II to Part 200— Contract Provisions for non-Federal Entity Contracts Under Federal Awards (§200.326).

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 6

NCWC GRANT REQUIREMENTS (Continued)

- iii. Grantee shall undertake an annual federal single audit (or alternative) as and when required by 2 CFR, Part 200, Subpart F (2 CFR §§ 200.500 et seq.) and provide a copy to the Conservancy on completion of each such audit throughout the term of this agreement. Further, on execution of this agreement, the grantee shall provide the Conservancy with a copy of its most recently completed annual federal single audit (or alternative) and shall complete and return to the Conservancy the questionnaire concerning internal audit controls (the "Federal Sub-Awardee Questionnaire"), which has been provided by the Conservancy to the grantee.
- e. Grantee shall comply with federal Davis Bacon Act and the Department of Labor regulations concerning the Davis-Bacon Act and other federal wage laws. When required by the Davis-Bacon Act, the Department of Labor's (DOL) government-wide implementation of the Davis-Bacon Act, or by Federal program legislation, all laborers and mechanics employed by contractors or subcontractors to work on construction contracts in excess of \$2,000 financed by Federal assistance funds must be paid wages not less than those established for the locality of the Project (prevailing wage rates) by the DOL. Non-federal entities must include in their construction contracts a requirement that the contractor or subcontractor comply with the requirements of the Davis-Bacon Act and the DOL regulations. In addition, grantee must comply with Pres. Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60) (all construction contracts awarded in excess of \$10,000); the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3) (for contracts for construction or repair); and Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5) (construction contracts awarded in excess of \$2,000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers).
- f. Grantee shall comply with the requirements specified in 2 CFR Part 175, prohibiting specified acts involving "trafficking in persons" by grantee or its employees during the term of the federal grant. Grantee, its employees, subrecipients under this award, and subrecipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award.
- g. Requirements under 41 USC §4712, Enhancement of Recipient and Subrecipient Employee Whistleblower Protection, which requires compliance with the following:

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 7

NCWC GRANT REQUIREMENTS (Continued)

- (i) This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 USC 4712.
- (ii) Grantee and its contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC 4712.
- (iii) The grantee shall insert this clause, including this paragraph (c), in all subawards and in contracts over the simplified acquisition threshold related to this award.

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 8

Standard Provisions

WORK PROGRAM

Before beginning the project, the grantee shall submit a detailed work program to the Executive Officer for review and written approval of its consistency with this grant agreement. The work program shall include:

1. The specific tasks to be performed.
2. A schedule of completion for the project, specifically listing the completion date for each project component and a final project completion date.
3. A detailed project budget. The project budget shall describe all labor and materials costs of completing each component of the project. For each project component, the project budget shall list all intended funding sources including the Conservancy's grant, and all other sources of monies, materials, or labor.

If all or any part of the project to be funded under this agreement will be performed by third parties ("contractors") under contract with the grantee, then the grantee shall, prior to initiating any contractor selection process, submit the selection package to the Executive Officer for review and written approval as to consistency with the purposes of this grant agreement. Upon approval by the Executive Officer, the grantee shall proceed with the contractor selection process. Prior to final selection of a contractor, the grantee shall submit to the Executive Officer for written approval the names of all contractors that the grantee intends to hire. The grantee shall then comply with the above paragraph regarding submission and approval of a work program prior to project commencement.

The work program shall have the same effect as if included in the text of this agreement. However, the work program may be modified without amendment of this agreement upon the grantee's submission of a modified work program and the Executive Officer's written approval of it. If this agreement and the work program are inconsistent, the agreement shall control.

The grantee shall carry out the project in accordance with the approved work program.

COORDINATION AND MEETINGS

The grantee shall coordinate closely with Conservancy staff and other involved entities, including local, state and federal agencies, and shall participate in meetings and other communications as necessary to ensure coordination.

Big Sur Land Trust
Grant Agreement No. 17-024
Page 9

WORK PRODUCTS AND ACKNOWLEDGMENT OF CONSERVANCY SUPPORT

All material, data, information, and written, graphic or other work produced, developed or acquired under this agreement is subject to the unqualified and unconditional right of the Conservancy to use, reproduce, publish, display, and make derivative use of all such work, or any part of it, free of charge and in any manner and for any purpose; and to authorize others to do so. If any of the work is subject to copyright, trademark, service mark, or patent, the Conservancy is granted and shall have a perpetual, royalty-free, nonexclusive and irrevocable license to use, reproduce, publish, use in the creation of derivative works, and display and perform the work, or any part of it, and to grant to any third party a comparable and coextensive sublicense.

The grantee shall include in any contract with a third party for work under this agreement terms that preserve the rights, interests, and obligations created by this section, and that identify the Conservancy as a third-party beneficiary of those provisions.

The grantee shall not utilize the work produced under this agreement for any profit-making venture, or sell or grant rights to a third party for that purpose.

In order to acknowledge the Conservancy's support of the project, the Conservancy's name and logo shall be included in the final report in a prominent location

COSTS AND DISBURSEMENTS

When the Conservancy determines that all "CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT" have been fully met, the Conservancy shall disburse to the grantee, in accordance with the approved project budget, a total amount not to exceed the amount of this grant, as follows:

The Conservancy shall disburse funds for costs incurred to date, less five percent, upon the grantee's satisfactory progress under the approved work program and upon submission of a "Request for Disbursement" form, which shall be submitted no more frequently than monthly but no less frequently than quarterly. The Conservancy shall disburse the five percent withheld upon the grantee's satisfactory completion of the project and compliance with the "PROJECT COMPLETION" section, below, and upon the Conservancy's acceptance of the project.

The Conservancy will reimburse the grantee for expenses necessary to the project when documented by appropriate receipts. The Conservancy will reimburse travel and related expenses at actual costs not to exceed the rates provided in Title 2, Division 1, Chapter 3, Subchapter 1, Article 2 of the California Code of Regulations ("CCR"), except that reimbursement may be in excess of these rates upon documentation that these rates are not reasonably available to the grantee. Reimbursement for the cost of operating a private vehicle

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 10

COSTS AND DISBURSEMENTS (Continued)

shall not, under any circumstance, exceed the current rate specified by the State of California for unrepresented state employees as of the date the cost is incurred. The Conservancy will reimburse the grantee for other necessary expenses if those expenses are reasonable in nature and amount taking into account the nature of the project, its location, and other relevant factors.

The grantee shall request disbursements by filing with the Conservancy a fully executed "Request for Disbursement" form (available from the Conservancy). The grantee shall include in the form its name and address, the number of this agreement, the date of the submission, the amount of the invoice, the period during which the work was actually done, and an itemized description, including time, materials, and expenses incurred, of all work done for which disbursement is requested. Hourly rates billed to the Conservancy and specified in the approved work program budget shall be equal to the actual compensation paid by grantee to employees, which may include employee benefits. The form shall also indicate cumulative expenditures to date, expenditures during the reporting period, and the unexpended balance of funds under the grant agreement.

An authorized representative of the grantee shall sign the form. Each form shall be accompanied by:

1. All receipts and any other source documents for direct expenditures and costs that the grantee has incurred.
2. Invoices from contractors that the grantee engaged to complete any portion of the work funded under this agreement and any receipts and any other source documents for costs incurred and expenditures by any such contractor, unless the Executive Officer makes a specific exemption in writing.
3. A supporting progress report summarizing the current status of the work and comparing it to the status required by the work program (budget, timeline, tasks, etc.), including written substantiation of completion of the portion of the project for which the grantee is requesting disbursement.

The grantee's failure to fully execute and submit a Request for Disbursement form, including attachment of supporting documents, will relieve the Conservancy of its obligation to disburse funds to the grantee unless and until the grantee corrects all deficiencies.

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 11

EXPENDITURE OF FUNDS AND ALLOCATION OF FUNDING AMONG BUDGET ITEMS

The total amount of this grant may not be increased except by written amendment to this agreement. The grantee shall expend funds consistent with the approved project budget. Expenditure on items contained in the approved project budget, other than overhead and indirect costs, may vary by as much as ten percent without prior approval by the Executive Officer, provided that the grantee first submits a revised budget to the Conservancy and requests disbursement based on the revised budget. Any deviation greater than ten percent, and any deviation that shifts funds from approved budget items into an overhead or indirect costs category, must be identified in a revised budget approved in advance and in writing by the Executive Officer. The Conservancy may withhold payment for items which exceed the amount allocated in the project budget by more than ten percent and which have not received the approval required above. Any increase in the funding for any particular budget item shall mean a decrease in the funding for one or more other budget items unless there is a written amendment to this agreement.

PROJECT COMPLETION

The grantee shall complete the project by the completion date provided in the "TERM OF AGREEMENT" section, above. Upon completion of the project, the grantee shall supply the Conservancy with evidence of completion by submitting:

1. The plan and any other work products specified in the work program for the project, each in a format or formats (for example, paper, digital, photographic) approved by the Executive Officer.
2. A fully executed final "Request for Disbursement."

Within thirty days of the grantee's submission of the above, the Conservancy shall determine whether the grantee has satisfactorily completed the project. If so, the Conservancy shall issue to the grantee a letter of acceptance of the project. The project shall be deemed complete as of the date of the letter.

EARLY TERMINATION, SUSPENSION AND FAILURE TO PERFORM

Before the project has commenced, either party may terminate this agreement for any reason by providing the other party with seven days notice in writing.

Before the project is complete, the Conservancy may terminate or suspend this agreement for any reason by providing the grantee with seven days notice in writing. In either case, the grantee

EXHIBIT E - STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 12

EARLY TERMINATION, SUSPENSION AND FAILURE TO PERFORM (Continued)

shall immediately stop work under the agreement and take all reasonable measures to prevent further costs to the Conservancy. The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the grantee in the performance of this agreement prior to the date of the notice to terminate or suspend, but only up to the undisbursed balance of funding authorized in this agreement. Any notice suspending work under this agreement shall remain in effect until further written notice from the Conservancy authorizes work to resume.

If the grantee fails to complete the project as required, or fails to fulfill any other obligations of this agreement prior to the termination date, the grantee shall be liable for immediate repayment to the Conservancy of all amounts disbursed by the Conservancy under this agreement. The Conservancy may, at its sole discretion, consider extenuating circumstances and not require repayment for work partially completed. This paragraph shall not be deemed to limit any other remedies the Conservancy may have for breach of this agreement.

Before the project is complete, the grantee may terminate this agreement for any reason by providing the Conservancy with seven days notice in writing and repaying to the Conservancy all amounts disbursed by the Conservancy under this agreement. The Conservancy may, at its sole discretion, consider extenuating circumstances and allow early termination without repayment for work partially completed.

On or before the date of termination of the agreement under this section, whether terminated by the grantee or the Conservancy, the grantee shall provide the Conservancy with all work, material, data, information, and written, graphic or other work produced, developed or acquired under this agreement (whether completed or partial), in appropriate, readily useable form.

The parties expressly agree to waive, release and relinquish the recovery of any consequential damages that may arise out of the termination or suspension of this agreement under this section.

The grantee shall include in any agreement with any contractor retained for work under this agreement a provision that entitles the grantee to suspend or terminate the agreement with the contractor for any reason on written notice and on the same terms and conditions specified in this section.

INDEMNIFICATION AND HOLD HARMLESS

The grantee shall be responsible for, indemnify and hold harmless the Conservancy, its officers, agents and employees from any and all liabilities, claims, demands, damages, or costs, including without limitation litigation costs and attorneys fees, resulting from or arising out of the willful or negligent acts or omissions of the grantee, its officers, agents, contractors, subcontractors and employees, or in any way connected with or incident to this agreement, except for the active

Big Sur Land Trust
Grant Agreement No. 17-024
Page 13

INDEMNIFICATION AND HOLD HARMLESS (Continued)

negligence of the Conservancy, its officers, agents or employees. The duty of the grantee to indemnify and hold harmless includes the duty to defend as provided in Civil Code Section 2778.

The grantee waives any and all rights to any type of express or implied indemnity or right of contribution from the State, its officers, agents or employees, for any liability resulting from, growing out of, or in any way connected with or incident to this agreement.

Nothing in this agreement is intended to create in the public or in any member of it rights as a third-party beneficiary under this agreement.

INSURANCE

Throughout the term of this agreement, the grantee shall procure and maintain insurance, as specified in this section, against claims for injuries to persons or damage to property that may arise from or in connection with any activities by the grantee or its agents, representatives, employees or contractors associated with the project undertaken pursuant to this agreement. As an alternative, with the written approval of the Executive Officer, the grantee may satisfy the coverage required by this section in whole or in part through: (a) its contractors' procurement and maintenance of insurance for work under this agreement, if the coverage otherwise fully satisfies the requirements of this section; or (b) the grantee's participation in a "risk management" plan, self insurance program or insurance pooling arrangement, or any combination of these, if consistent with the coverage required by this section.

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:
 - a. Insurance Services Office ("ISO") Commercial General Liability coverage, occurrence basis (Form CG 00 01) or comparable.
 - b. Automobile Liability coverage - ISO Form Number CA 0001, Code 1 (any auto).
 - c. Workers' Compensation insurance as required by the Labor Code of the State of California.
2. Minimum Limits of Insurance. Grantee shall maintain coverage limits no less than:

EXHIBIT E - STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 14

INSURANCE (Continued)

- a. General Liability:
(Including operations, products and completed operations, as applicable) \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities under this agreement or the general aggregate limit shall be twice the required occurrence limit.
- b. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- 3. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Executive Officer.
- 4. Required Provisions Concerning the Conservancy and the State of California.
 - a. Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party, except after thirty days' prior written notice by first class mail has been given to the Conservancy; or in the event of cancellation of coverage due to nonpayment, after ten days prior written notice to the Conservancy. The grantee shall notify the Conservancy within two days of receipt of notice that any required insurance policy will lapse or be cancelled. At least ten days before an insurance policy held by the grantee lapses or is cancelled, the grantee shall provide the Conservancy with evidence of renewal or replacement of the policy.
 - b. The grantee hereby grants to the State of California, its officers, agents, employees, and volunteers, a waiver of any right to subrogation which any insurer of the grantee may acquire against the State of California, its officers, agents, employees, and volunteers, by virtue of the payment of any loss under such insurance. Grantee agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the grantee has received a waiver of subrogation endorsement from the insurer.
 - c. The general liability and automobile liability policies are to contain, or to be endorsed to contain, the following provisions:
 - (i) The State of California, its officers, agents and employees are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the grantee; and with respect to liability arising out of work or operations, including completed operations, performed by or on

EXHIBIT E - STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 15

INSURANCE (Continued)

behalf of the grantee including materials, parts or equipment furnished in connection with such work or operations.

- (ii) For any claims related to this agreement, the grantee's insurance coverage shall be primary insurance with respect to the State of California, its officers, agents and employees, and not excess to any insurance or self-insurance of the State of California.
- (iii) The limits of the additional insured coverage shall equal the limits of the named insured coverage regardless of whether the limits of the named insurance coverage exceed those limits required by this agreement.
- d. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
- 5. Acceptability of Insurers. Insurance shall be placed with insurers admitted to transact business in the State of California and having a current Best's rating of "B+:VII" or better or, in the alternative, acceptable to the Conservancy and approved in writing by the Executive Officer.
- 6. Verification of Coverage. The grantee shall furnish the Conservancy with original certificates and amendatory endorsements, or copies of the applicable policy language, effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Executive Officer before work commences. The Conservancy reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage, at any time.
- 7. Contractors. The grantee shall include all contractors as insureds under its policies or shall ~~require each~~ contractor to provide and maintain coverage consistent with the requirements of this section. To the extent generally available, grantee shall also require each professional contractor to provide and maintain errors and omissions liability insurance appropriate to the contractor's profession and in a reasonable amount in light of the nature of the project.
- 8. Premiums and Assessments. The Conservancy is not responsible for premiums and assessments on any insurance policy.

EXHIBIT E - STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 16

AUDITS/ACCOUNTING/RECORDS

The grantee shall maintain financial accounts, documents, and records (collectively, "records") relating to this agreement, in accordance with the guidelines of "Generally Accepted Accounting Principles" ("GAAP") published by the American Institute of Certified Public Accountants. The records shall include, without limitation, evidence sufficient to reflect properly the amount, receipt, deposit, and disbursement of all funds related to work under the agreement. Time and effort reports are also required. The grantee shall maintain adequate supporting records in a manner that permits tracing from the request for disbursement forms to the accounting records and to the supporting documentation.

Additionally, the Conservancy or its agents may review, obtain, and copy all records relating to performance of the agreement. The grantee shall provide the Conservancy or its agents with any relevant information requested and shall permit the Conservancy or its agents access to the grantee's premises upon reasonable notice, during normal business hours, to interview employees and inspect and copy books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this agreement and any applicable laws and regulations.

The grantee shall retain the required records for a minimum of three years following final disbursement by the Conservancy. The records shall be subject to examination and audit by the Conservancy and the Bureau of State Audits during the retention period.

If the grantee retains any contractors to accomplish any of the work of this agreement, the grantee shall first enter into an agreement with each contractor requiring the contractor to meet the terms of this section and to make the terms applicable to all subcontractors.

The Conservancy may disallow all or part of the cost of any activity or action that it determines to be not in compliance with the requirements of this agreement.

NONDISCRIMINATION

During the performance of this agreement, the grantee and its contractors shall not deny the agreement's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The grantee shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. The grantee and contractors shall comply with the provisions of the

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 17

NONDISCRIMINATION (Continued)

Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the Conservancy to implement such article. The grantee shall permit access by representatives of the Department of Fair Employment and Housing and the Conservancy upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or the Conservancy shall require to ascertain compliance with this clause. The grantee and its contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

The grantee shall include the nondiscrimination and compliance provisions of this clause in all contracts to perform work under this agreement.

INDEPENDENT CAPACITY

The grantee, and the agents and employees of the grantee, in the performance of this agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.

ASSIGNMENT

Without the written consent of the Executive Officer, this agreement is not assignable by the grantee in whole or in part.

TIMELINESS

Time is of the essence in this agreement.

EXECUTIVE OFFICER'S DESIGNEE

The Executive Officer shall designate a Conservancy project manager who shall have authority to act on behalf of the Executive Officer with respect to this agreement. The Executive Officer shall notify the grantee of the designation in writing.

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Big Sur Land Trust
Grant Agreement No. 17-024
Page 18

AMENDMENT

Except as expressly provided in this agreement, no change in this agreement shall be valid unless made in writing and signed by the parties to the agreement. No oral understanding or agreement not incorporated in this agreement shall be binding on any of the parties.

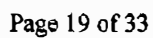
LOCUS

This agreement is deemed to be entered into in the County of Alameda.

SURVIVAL

The obligations in the "WORK PRODUCTS AND ACKNOWLEDGMENT OF CONSERVANCY SUPPORT" and "INDEMNIFICATION AND HOLD HARMLESS" sections, above, shall survive the termination of this agreement.

Exhibit 1b: Site Map



1119

COASTAL CONSERVANCY

Staff Recommendation

June 15, 2017

**LOWER CARMEL RIVER FLOODPLAIN RESTORATION – DESIGN AND
ENVIRONMENTAL COMPLIANCE**

Project No. 08-036-01

Project Manager: Tom Gandesbery

RECOMMENDED ACTION: Augmentation of the Conservancy's August 5, 2010 authorization to disburse an additional amount of up to \$245,000 from a grant from the U.S. Fish and Wildlife Service to the Big Sur Land Trust for the Lower Carmel River Floodplain Restoration Project in Monterey County.

LOCATION: Lower Carmel River, Monterey County (Exhibit 1)

PROGRAM CATEGORY: Integrated Coastal and Marine Resources

EXHIBITS

Exhibit 1: Project Location Map

Exhibit 2: August 5, 2010 Staff Recommendation

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31111 & 31220 of the Public Resources Code:

"The State Coastal Conservancy hereby augments its August 5, 2010 authorization to disburse an additional amount of up to two hundred and forty five thousand dollars (\$245,000) of federal grant funds to the Big Sur Land Trust (BSLT) to prepare project design, conduct additional environmental review, and prepare permit applications for the Lower Carmel River Floodplain Restoration Project in Monterey County. This authorization remains subject to the August 5, 2010 resolution conditions."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed project remains consistent with the Conservancy's June 5, 2008 and August 5, 2010 authorizations regarding the purposes and objectives of Chapters 3 and 5.5 of Division

LOWER CARMEL RIVER FLOODPLAIN RESTORATION

21 of the Public Resources Code, respectively funding feasibility studies and Integrated Coastal and Marine Resources Protection; the Project Selection Criteria and Guidelines; local watershed management plans and water quality control plans; the nonprofit qualifications of the BSLT; and compliance with the California Environmental Quality Act.”

PROJECT SUMMARY:

Staff recommends that the Conservancy amend its August 5, 2010 authorization to disburse an additional \$245,000 to the Big Sur Land Trust (BSLT) for the Lower Carmel River Floodplain Restoration Project in Monterey County. The additional funding will be used to work with the County of Monterey to prepare a Draft and Final Environmental Impact Report and Statement (EIR/EIS), consistent with the California Environmental Policy Act and National Environmental Policy Act (CEQA/NEPA, respectively).

Funding for the proposed augmentation will be from a U.S. Fish and Wildlife Service (USFWS) National Coastal Wetland Conservation \$925,000 grant awarded to the Conservancy in 2010 specifically for planning and implementation of the Lower Carmel River Floodplain Restoration project. This grant originally stipulated that \$180,000 could be used for project planning and the remaining \$745,000 was reserved for project implementation. In August 2010, the Conservancy authorized the use of \$180,000 of these funds for planning, environmental review, and permitting. However, the project partners recently decided that the project required a more comprehensive environmental document, including preparation of an EIS pursuant to NEPA. As a result, BSLT requested, an additional \$245,000 in funding to cover the planning phase of the project, leaving \$500,000 for future implementation of the project. At this writing, while the USFWS staff support this approach, it is currently evaluating a budget revision to the grant to allocate \$425,000 for planning and \$500,000 for implementation and to extend the grant term. Conservancy staff expects that the USFWS will formally approve this grant amendment prior to the Conservancy’s June 15, 2017 meeting.

Since 2010, the BSLT has been working closely with the County of Monterey, the Carmel Area Wastewater District (CAWD), California State Department of Parks and Recreation (State Parks) and other stakeholders to complete restoration designs and environmental clearances. The County agreed to oversee construction of the project, and as a result has taken over the lead partnership role working in continued collaboration with BSLT. The project involves large amounts of grading to reestablish floodplain and construction of a causeway along Highway 1. For additional project information see Exhibit 2.

Staff plans to recommend additional funding for implementation of the project after the environmental document is complete.

Site Description: See Exhibit 2, “Site Description” section.

Project History: See Exhibit 2, “Project History” section.

LOWER CARMEL RIVER FLOODPLAIN RESTORATION

PROJECT FINANCING

Current authorization

U.S. Fish and Wildlife Service	\$245,000
Subtotal of Current Authorization	\$245,000

Previous authorization

U.S. Fish and Wildlife Service	\$180,000
Coastal Conservancy	\$250,000
U.S. Environmental Protection Agency	\$200,000
County of Monterey (requested)	\$75,000
Big Sur Land Trust	<u>\$65,000</u>
Subtotal of Previous Authorization	\$770,000

Total Project Costs	\$1,015,000
----------------------------	--------------------

The funding for this augmentation is provided from the USFWS National Coastal Wetlands Conservation Grant awarded to the Conservancy specifically for the Lower Carmel River Restoration Project. The National Coastal Wetlands Conservation Grant Program provides matching grants to States for acquisition, restoration, management or enhancement of coastal wetlands. The Big Sur Land Trust has provided a land donation, in-kind services, and additional funding to serve as the non-federal match necessary to receive these funds. USFWS is expected to approve a budget revision to the grant to allocate \$360,000 for planning and \$500,000 for implementation.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The project remains consistent with the Conservancy's enabling legislation as described in the August 5, 2010 staff recommendation (See Exhibit 2).

CONSISTENCY WITH CONSERVANCY'S 2013 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S), AS REVISED JUNE 25, 2015:

The project is consistent with the Conservancy's Strategic Plan goals and objectives as described in the August 5, 2010 staff recommendation (See Exhibit 2).

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:

The project remains consistent with the Conservancy's Project Selection Criteria and Guidelines as described in the August 5, 2010 staff recommendation (Exhibit 2). However, since the August 2010 authorization, the Project Selection Criteria & Guidelines were amended to include an additional required criterion, which is that a project must promote and implement state plans and policies.

LOWER CARMEL RIVER FLOODPLAIN RESTORATION

Promotion and implementation of state plans and policies: This proposed project is consistent with the following plans and policies:

- The project implements the *California Water Action Plan* (California Natural Resources Agency, California Environmental Protection Agency, and California Department of Food and Agriculture, 2014), which includes goal number 4: protect and restore important ecosystems by improving rearing habitat for SCCC steelhead. This project will address this goal.
- The project is consistent with the California Department of Fish and Wildlife's 2005 *California Wildlife Action Plan*, which sets forth goals for the Central Coast region that include protecting sensitive species and important wildlife habitat and restoring anadromous fish populations. This project will address both of these goals.
- The project implements a recovery objective identified for the Carmel River bio-geographic group in the South-Central California Coast Steelhead Recovery Plan (National Marine Fisheries Service, 2013) specifically, to "restore suitable habitat conditions and characteristics to support all life history stages of viable [steelhead] populations..." DPS Recovery Objective 6.2 (Page 6-2).

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The project remains consistent with the Local Coastal Program as described in the August 5, 2010 staff recommendation (See Exhibit 2).

**CONSISTENCY WITH LOCAL WATERSHED MANAGEMENT PLAN/
STATE WATER QUALITY CONTROL PLAN:**

The project remains consistent with local watershed management plans and the State Water Quality Control Plan as described in the August 5, 2010 staff recommendation (See Exhibit 2).

COMPLIANCE WITH CEQA:

In its August of 2010 authorization, the Conservancy determined that the project was statutorily exempt from the California Environmental Quality Act (CEQA), pursuant to 14 Cal. Code of Regulations Section 15262 because the project only involves preparation of planning studies and environmental documents for possible future actions which the Conservancy has not approved, adopted, or funded and the studies will consider environmental factors. (See Exhibit 2) , ,

The proposed augmentation only increases funding for the preparation of the same planning studies and environmental documents that constitute the project. The addition of funding for this statutorily-exempt project does not have the potential for a significant effect on the environment. (See 14 Cal. Code of Regs Section 15382). Therefore, no new analysis or further compliance is required under CEQA for the approval of additional funding for this project



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Pacific Southwest Region
Wildlife & Sport Fish Restoration Program
2800 Cottage Way, W-1729
Sacramento, California 95825-1846



In Reply Refer To:
FWS/R8/WSFR

Ms. Trish Chapman
California Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612

August 27, 2010

Subject: Notice of Federal Assistance Award for C-31-L-1

Dear Ms. Engeman:

The enclosed Application for Federal Assistance, C-31-L-1, Odello East Floodplain Restoration Project, Monterey County, CA, is approved effective January 4, 2010, with a total Federal share in the amount of \$925,000. The performance period of this award is January 4, 2010, through December 31, 2013.

Terms of Acceptance: Per <http://www.doi.gov/pam/TermsandConditions.html>, acceptance of a Federal Financial award from the Department of the Interior (DOI) carries with it the responsibility to be aware of, and comply with the terms and conditions of the award. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Awards are based on the application submitted to, and as approved by DOI, and are subject to the terms and conditions incorporated either directly or by reference to the following:

- Program legislation/regulation.
- Special terms and conditions.
- Code of Federal Regulations/Regulatory Requirements, as applicable

43 CFR 12(A) Administrative and Audit Requirements and Cost Principles for Assistance Programs

43 CFR 12(E) Buy American Requirements for Assistance Programs



Page 24 of 33

Whitson and Associates, Inc. dba Whitson Engineers
Final Design of CRFREE Project
RMA

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

43 CFR 12(C) Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

43 CFR 12(F) Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, other Non-Profit and Commercial Organizations

43 CFR 43 Governmentwide Requirements for a Drug-Free Workplace

43 CFR 42 Governmentwide Debarment and Suspension (Nonprocurement)

43 CFR 18 New Restrictions on Lobbying

Interim Guidance for Financial Status and Performance Reporting, dated May 12, 2009

Special Conditions and Provisions for land acquisition:

- Cost accounting is required at the Grant level.

- USFWS must receive: (a) annual interim financial status reports and annual interim performance reports; and (b) final financial status reports and performance reports no later than 90 days after the expiration or termination of grant support.

-This project needs additional review and environmental compliance in order to conduct the earth moving activities proposed. Only the land acquisition, project design and permitting, monitoring and surveys, and project management are funded at this time. Up to \$216,000 may be drawn for the aforementioned activities. The remaining funds, (\$709,000) are not released until environmental compliance is completed per the paragraphs below, and the Wildlife and Sport Fish Restoration Program (WSFR), Grant Management Specialist has informed the grantee in writing that they may continue.

-Although the grant funds to be used in the earth moving and restoration portion of the project will not be used to work in the streambed or in any listed species habitat, analysis must be completed and any necessary permits (ESA, ACOE, RWQCB etc) must be acquired prior to being able to draw funding for this portion of the project. The grantee will provide copies of the permits and/or documentation to the WSFR Office before any funds for the earth moving and restoration planting can be drawn.

-Part of the project is post project restoration and water quality monitoring. Since it is unknown, if any listed or candidate species will repopulate the restored areas during the term of this grant; if a listed or candidate species is encountered during monitoring, then monitoring shall cease in that area until the grantee/subgrantee have consulted with the USFWS Ventura Field Office and received any needed authorization or permits to continue. Any permits required to continue monitoring and surveys shall be provided to the WSFR Grant Management Specialist.

EXHIBIT E - STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

-There will be no in-stream work undertaken using funds from this grant. Therefore, there would be No Effect to steelhead. However, if this situation were to change, as evidenced by the ongoing monitoring, the grantee/subgrantee will cease the activity until consulting with NOAA and providing the necessary documentation to the WSFR Office.

-The grantee/subgrantee will consult with the State Historic Preservation Office prior to conducting the earth-moving activities planned for this project. Prior to releasing the funding for the earthmoving activities, the WSFR Office must be provided with documentation that the SHPO consultation has been completed and any conditions have been complied with.

- Prior to acquiring the donated nonfederal match property, the following conditions must be completed:

1. A certified appraiser must conduct an appraisal that meets Federal land acquisition standards. Specifically the appraisal must comply with the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA). This must occur for the property you plan to encumber as non-Federal land match for the Federal grant share.
2. Following the appraisal, an appraisal review is required. The appraisal review may be provided by your agency, by contract, or through agreement with another state agency. Only a certified or licensed review appraiser may conduct the review appraisal. If you do not have access to a certified or licensed review appraiser the WSFR office can coordinate with the Office of Valuation Services (OVS) to conduct the review appraisal for your agency. Please be aware that workload issues in the OVS may affect the timeliness of the appraisal review. At least 90-days will be required to obtain a review by OVS.
3. The appraisal and review appraisal documents must be submitted to the WSFR office for review and approval prior to drawing the funds for which this property is the nonfederal match.
4. The deed of the nonfederal match properties shall be encumbered to ensure that the land will be managed, in perpetuity, to maintain the coastal wetland values consistent with the goals and objectives of this grant. Evidence of such shall be included as part of the final report.

Please contact me or Becky Miller at (916) 978-6185 if you have any questions.

Sincerely,



Susan Detwiler, Chief
Wildlife & Sport Fish Restoration Program

Cc: Sean Williamson, State Coastal Conservancy, Oakland, CA



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Pacific Southwest Region
Wildlife & Sport Fish Restoration Program
2800 Cottage Way, W-1729
Sacramento, California 95825



In Reply Refer To:
FWS/R8/WSIFR

Ms. Kate Goodnight
State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, California 94612

January 16, 2014

Subject: Notice of Federal Assistance Award for F10AP00825 (C-31-L-1) Amendment 1

Dear Ms. Goodnight:

The enclosed Application for Federal Assistance, F10AP00825, Amendment 1, FY 2010, Coastal Wetland, Odello East Floodplain Restoration Project, request for time extension is approved effective December 16, 2013. The performance period of this award is January 4, 2010, through December 31, 2018.

Terms of Acceptance:

Per http://www.doi.gov/pam/programs/financial_assistance/TermsandConditions.cfm, acceptance of a Federal Financial award from the Department of the Interior (DOI) carries with it the responsibility to be aware of and comply with the terms and conditions of the award. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Awards are based on the application submitted to, and as approved by DOI and are subject to the terms and conditions incorporated either directly or by reference to the following:

- Program legislation/regulation.
- Special terms and conditions.
- Code of Federal Regulations/Regulatory Requirements, as applicable

2 CFR 25 – Central Contractor Registration and Data Universal Numbering System

2 CFR 170 – Reporting Sub-awards and Executive Compensation

2 CFR 1400 – Government wide Debarment and Suspension (Non-procurement)

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

2 CFR 175 -- Trafficking Victims Protection Act of 2000

43 CFR 12(A) Administrative and Audit Requirements and Cost Principles for Assistance Programs

43 CFR 12(E) Buy American Requirements for Assistance Programs

43 CFR 12(C) Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

43 CFR 12(F) Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, other Non-Profit and Commercial Organizations

43 CFR 43 Governmentwide Requirements for a Drug-Free Workplace

43 CFR 42 Governmentwide Debarment and Suspension (Nonprocurement)

43 CFR 18 New Restrictions on Lobbying

305 DM 3 Integrity of Scientific and Scholarly Activities

Interim Guidance for Financial Status and Performance Reporting, dated May 12, 2009

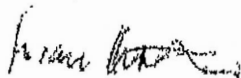
Special Provisions and Conditions:

- All provisions and conditions previously identified and listed for this grant shall remain in effect with this amendment.
- Annual Federal Financial Reports (SF425) and Performance Reports will be due June 29, 2014, and on that date every year until the completion of the grant. Final Reports will be due 90 days from the ending date of the grant (Due: March 31, 2019). For further information regarding reporting requirements and sanctions please see the reporting guidance issued May 12, 2009 in the Wildlife and Sport Fish Restoration Toolkit located at:
<http://wsfrprograms.fws.gov/subpages/toolkitfiles/intgdrpt.pdf>
- Under the terms and conditions of this award, your organization must maintain an active SAM registration until the final financial report is submitted or final payment is received, whichever is later. If your organization's SAM registration expires during the required period, the U.S. Fish & Wildlife Service will suspend payment under this and all other Service awards to your organization until you update your organization's SAM registration.
- Your organization's CCR registration is set to expire on December 18, 2014. Under the terms and conditions of this award, your organization is required to maintain an active CCR registration throughout the entire approved award period.

EXHIBIT E - STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Please contact me or Bart Prose at (916) 978-6152 if you have any questions.

Sincerely,



Susan K. Detwiler, Chief
Wildlife & Sport Fish Restoration Program

Enclosure: SF424 and Grant Narrative

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Pacific Southwest Region
Wildlife & Sport Fish Restoration Program
2800 Cottage Way, W-1729
Sacramento, California 95825



In Reply Refer to:
FWS/R8/WSFR

August 16, 2017

Mr. Thomas Gandesbery, Project Manager
California State Coastal Conservancy
1515 Clay Street, 10th Floor
Oakland, California 94612-1401
DUNS: 808322408

Subject: Notice of Amendment to Grant Award for FBMS# F10AP00825 (C-31-L-1)
Amendment 2

Dear Mr. Gandesbery:

Your organization's application for Federal financial assistance amendment titled "2010 Coastal Wetlands, Carmel River Floodplain Restoration and Environmental Enhancement Project (previously Odello East Floodplain Restoration Project)" submitted to the U.S. Fish and Wildlife Service (Service)'s CFDA Program 15.614 is approved effective March 21, 2017. This award is amended as follows: time extension, modify scope, budget and match.

The performance period of this award is January 4, 2010 through December 31, 2019. Only allowable costs resulting from obligations incurred during the performance period and any authorized pre-award costs may be charged to this award. All obligations incurred under the award must be liquidated no later than 90 calendar days after the end of the performance period, unless the Service approves a final financial reporting period extension (see Reporting Requirements section below). If you need more time to complete project activities, you must submit a written request to r8fa_grants@fws.gov before the end of the stated performance period.

Payments:

Your organization has completed enrollment in U.S. Treasury's Automated Standard Application for Payment (ASAP) system (https://www.fiscal.treasury.gov/fsservices/gov/pmt/asap/asap_home.htm). When requesting payment in ASAP, your Payment Requestor will be required to enter an Account ID (see table below). The number assigned to this award is the partial Account ID in ASAP. When entering the Account ID in ASAP, the Payment Requestor should enter the award number identified in the subject line on letter followed by a percent sign (%). Refer to the ASAP.gov Help menu for detailed instructions on requesting payments in ASAP.

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Use the information below to identify your award funds at: <https://www.asap.gov>

ASAP Accounting Information		FY/Funding Title	Federal Share	% of Federal Share	State Share	% of State Share	Total Award
P10AP00825-0001-0000	Orig	Coastal Wetland	925,000	14%	5,472,100	86%	6,397,100
	Amd 1	Time Ext only					
	Amd 2	Time Ext, Scope & Match Chg		75%	(5,163,767)	25%	(5,163,767)
Totals:			\$925,000	75%	\$3,083,333	25%	\$1,233,333

Terms of Acceptance:

Acceptance of a financial assistance award (i.e., grant or cooperative agreement) from the Service carries with it the responsibility to be aware of and comply with the terms and conditions applicable to the award. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Awards are based on the application submitted to and approved by the Service. Awards are subject to the terms and conditions incorporated into the notice of award either by direct citation or by reference to the following: Federal regulations; program legislation or regulation; and special award terms and conditions. The terms and conditions of Service awards flow down to subrecipients and contractors, unless a particular award term or condition specifically indicates otherwise. The Federal regulations applicable to Service recipients and their subrecipients and contractors are listed by recipient type in the **Service Financial Assistance Award Terms and Conditions** posted on the Internet at <http://www.fws.gov/grants/atc.html>. If you do not have access to the Internet and require a printed copy of the award terms and conditions, contact the Service Project Officer identified below.

If Recipient decides to not accept this award, Recipient must notify the Service Project Officer in writing within 30 calendar days of that decision.

Special Conditions and Provisions:

- Your organization's CCR registration is set to expire on May 30, 2018. Under the terms and conditions of this award, your organization is required to maintain an active CCR registration throughout the entire approved award period.
- All provisions and conditions previously identified and listed for this grant shall remain in effect with this amendment.
- This grant may not be extended beyond December 31, 2019.
- This project requires additional review and completion of environmental compliance prior to project implementation. As such, \$500,000 for project implementation is not approved to be drawn until such compliance has been completed and you are notified in writing from us that you may draw these funds. However, up to \$425,000 may be drawn for environmental review, planning, and project management.

Reporting Requirements:

Report Title	Report Period:	Due Date
Interim Federal Financial Report (SF-425)	01/04/2010-03/31/2018	06/29/2018
Interim Performance Report	01/04/2010-03/31/2018	06/29/2018
Interim Federal Financial Report (SF-425)	01/04/2010-03/31/2019	06/29/2019
Interim Performance Report	01/04/2010-03/31/2019	06/29/2019
Final Federal Financial Report (SF-425)	01/04/2010-12/31/2019	03/30/2020
Final Performance Report	01/04/2010-12/31/2019	03/30/2020

All Reports should be sent to r8fa_grants@fws.gov.

Recipients must use the Standard Form (SF) 425, *Federal Financial Report* form for all financial reporting. This form is available at <http://www.grants.gov/web/grants/forms/post-award-reporting-forms.html#sortBy=1> or Wildlife and Sport Fish Restoration Toolkit located at: <http://fawiki.fws.gov/display/WTk/Toolkit+Homepage>.

Performance reports must contain: 1) a comparison of actual accomplishments with the goals and objectives of the award as detailed in the approved scope of work; 2) a description of reasons why established goals were not met, if appropriate; and 3) any other pertinent information relevant to the project results. Please include the Service award number provided in the subject line of this letter on all reports.

Financial and performance reporting due dates may be extended by the Service upon receipt of a written request addressed to the Service at r8fa_grants@fws.gov identifying the type of report to be extended, the requested revised due date, and a justification for the extension. The Service may approve an additional extension if justified by a catastrophe that significantly impairs the recipient's operations. Requests for reporting due date extensions must be received by the Service no later than one day before the original reporting due date.

System for Award Management (SAM) Registration: Under the terms and conditions of this award, your organization must maintain an active SAM registration at <https://www.sam.gov/portal/public/SAM/> until the final financial report is submitted or final payment is received, whichever is later. If your organization's SAM registration expires during the required period, the Service will suspend payment under this and all other Service awards to your organization until you update your organization's SAM registration.

Project Contacts:

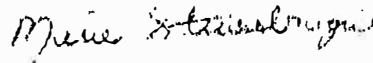
The Service Project Officer for this award is:	The Recipient Project Officer for this award is:
Justin Cutler, Grant Management Specialist Phone: (916) 414-6457 Cell: (916) 768-2336 Email: justin_cutler@fws.gov	Thomas Gandesbery, Project Manager Phone: (510) 286-7028 Email: tgandesbery@scs.ca.gov

EXHIBIT E – STATE COASTAL CONSERVANCY AGREEMENT NO. 17-024

Please contact Justin Cutler with any questions. Please include the Service award number provided in the subject line of this letter in all written communications.

Thank you for your interest and efforts in supporting conservation for fish and wildlife and their habitats.

Sincerely,



Marie Strassburger
Chief

Enclosure: SP424, purpose

This page intentionally left blank

Attachment H

This page intentionally left blank.

**AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
WHITSON AND ASSOCIATES, INC. DBA WHITSON ENGINEERS**

THIS AMENDMENT NO. 1 to the Professional Services Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Whitson and Associates, Inc. dba Whitson Engineers (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into a Professional Services Agreement with County on April 14, 2016 (hereinafter, "Agreement") to provide Final Design of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (hereinafter, "Project") through December 31, 2017 for an amount not to exceed \$1,113,987; and

WHEREAS, completion of the Project has been delayed due to new information and on-going coordination and negotiations between the County, California Department of Parks and Recreation (DPR), and Carmel Area Wastewater District (CAWD) for completion of environmental documentation, and California Environmental Quality Act (CEQA)/National Environmental Quality Act (NEPA) documentation associated with the Project; and

WHEREAS, additional time is necessary to evaluate, revise and complete tasks associated with the Project; and

WHEREAS, the Parties wish to amend the Agreement to extend the term for approximately six (6) additional months to June 18, 2018 with no associated dollar amount increase to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 1.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from April 13, 2016 to June 18, 2018, unless sooner terminated pursuant to the terms of this Agreement.

2. The "Delivery Dates" referenced in the Agreement, Exhibit A – Scope of Services/Payment Provisions, are hereby amended to extend through June 18, 2018, to conform to the amended term of the Agreement.

3. In all places within the Agreement, any reference to the County's address at 168 West Alisal Street, 2nd Floor, Salinas, California 93901 is hereby replaced with 1441 Schilling Place, South 2nd Floor, Salinas, California 93901-4527.
4. All other terms and conditions of the Agreement remain unchanged and in full force.
5. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
6. The recitals to this Amendment No. 1 are incorporated into the Agreement and this Amendment No. 1.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR*

By: 
Carl P. Holm, AICP
RMA Director

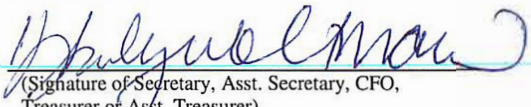
Date: 1/3/2018

Whitson and Associates, Inc.
dba Whitson Engineers
Contractor's Business Name

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

Its: Richard Weber, President
(Print Name and Title)


Date: 12/13/17

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

Its: Kimberley Woltman, CFO
(Print Name and Title)


Date: 12/13/17

**Approved as to Form and Legality
Office of the County Counsel**

By: 
Brian P. Briggs
Deputy County Counsel

Date: 1-2-18

Approved as to Fiscal Provisions

By: 
Auditor/Controller

Date: 1-7-18

Approved as to Indemnity and Insurance Provisions

By: _____
Risk Management

Date: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managing members. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

This page intentionally left blank



Monterey County

Item No.42

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-874

September 27, 2022

Introduced: 9/12/2022

Current Status: Public Works, Facilities &
Parks - Consent

Version: 1

Matter Type: General Agenda Item

Approve and authorize the Director of Public Works, Facilities and Parks to execute and record a thirty (30) year Deed Restriction for parcels at Toro Park (Assessor's Parcel Number: 161-011-071) and Jacks Peak Park (Assessor's Parcel Number: 103-071-013), as required for projects funded by the California Department of Parks and Recreation Per Capita Program.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Approve and authorize the Director of Public Works, Facilities and Parks to execute and record a thirty (30) year Deed Restriction for parcels at Toro Park (Assessor's Parcel Number: 161-011-071) and Jacks Peak Park (Assessor's Parcel Number: 103-071-013), as required for projects funded by the California Department of Parks and Recreation Per Capita Program.

SUMMARY/DISCUSSION:

On September 14, 2021, the Board of Supervisors (BOS) adopted Resolution No. 21-303 delegating the authority to the Director of Public Works, Facilities and Parks (PWFP), or designee, to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope(s) for the California Department of Parks and Recreation (California State Parks) Per Capita Program projects. The Per Capita Program is a non-competitive grant program funded by Proposition 68 with funding available to local governments on a per capita basis. PWFP submitted four (4) applications for the following Board approved projects:

Toro Park: New roof and chimney for Buckeye BBQ area.

Jacks Peak Park: Bathroom roof replacement.

Lake San Antonio-South Shore: Repair electrical pedestals at campsites; remove ten (10) mobile housing units and convert pads to premium recreational vehicle (RV) campsites.

Lake Nacimiento: Replace bathroom roof and remove three (3) dilapidated modular units and replace with new modular unit that will house the public laundry facility.

California State Parks approved the four (4) project applications, and the 2018 Parks Bond Act Per Capita Program Grant Contract was executed March 7, 2022 (Exhibit B to Attachments A and B) and \$631,430 was awarded for the approved projects. Per the provisions outlined in the Per Capita Program Procedural Guide (Attachment C), the County is required to record a thirty (30) year Deed Restriction on the property title of County owned project sites to ensure that the project sites will remain open for public use and recreation for thirty (30) years. The Deed Restriction language is

prescribed by California State Parks. Toro Park and Jacks Peak Park are comprised of many parcels and the Deed Restrictions only restrict the project site parcel at each park. The Lake Nacimiento and Lake San Antonio project sites are not subject to the Per Capita Program Deed Restriction requirement as they are owned by Monterey County Water Resources Agency and managed by the County. Authorizing the Director of PWFP to execute and record a thirty (30) year Deed Restriction for Toro Park (Attachment A) and Jacks Peak Park (Attachment B) will fulfill the Deed Restriction requirement for the Per Capita Program.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed and approved the Deed Restrictions for both parks as to form.

FINANCING:

A total amount of \$631,430 was awarded to the County for the approved Per Capita Program projects. However, a twenty percent (20%) cash match is required for the approved Per Capita Program projects. The BOS approved using \$157,858 in American Reuse Plan Act (ARPA) funds to meet the required match in the Fiscal Year (FY) 2021-22 and FY 2022-23 PWFP Adopted Budgets, Facilities Master Plan Project Fund 404, Appropriation Unit PFP057.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action supports the BOS Strategic Initiatives for Administration, Health & Human Services, Infrastructure, and Public Safety by proactively seeking grant funding to enhance the County's ability to facilitate infrastructure projects and offer improved facilities and safe public recreation experiences for the community.

_____ Economic Development

☒ Administration

☒ Health & Human Services

☒ Infrastructure

☒ Public Safety

Prepared by: Janie Bettencourt, Management Analyst II (831) 755-5184

Reviewed by: Bryan Flores, Chief of Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities and Parks

Attachments:

Attachment A - Draft Deed Restriction for Toro Park

Attachment B - Draft Deed Restriction for Jacks Peak Park

Attachment C - Per Capita Program Procedural Guide

(Attachments are on file with the Clerk of the Board)



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 22-874

September 27, 2022

Introduced: 9/12/2022

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

Approve and authorize the Director of Public Works, Facilities and Parks to execute and record a thirty (30) year Deed Restriction for parcels at Toro Park (Assessor's Parcel Number: 161-011-071) and Jacks Peak Park (Assessor's Parcel Number: 103-071-013), as required for projects funded by the California Department of Parks and Recreation Per Capita Program.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Approve and authorize the Director of Public Works, Facilities and Parks to execute and record a thirty (30) year Deed Restriction for parcels at Toro Park (Assessor's Parcel Number: 161-011-071) and Jacks Peak Park (Assessor's Parcel Number: 103-071-013), as required for projects funded by the California Department of Parks and Recreation Per Capita Program.

SUMMARY/DISCUSSION:

On September 14, 2021, the Board of Supervisors (BOS) adopted Resolution No. 21-303 delegating the authority to the Director of Public Works, Facilities and Parks (PWFP), or designee, to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope(s) for the California Department of Parks and Recreation (California State Parks) Per Capita Program projects. The Per Capita Program is a non-competitive grant program funded by Proposition 68 with funding available to local governments on a per capita basis. PWFP submitted four (4) applications for the following Board approved projects:

Toro Park: New roof and chimney for Buckeye BBQ area.

Jacks Peak Park: Bathroom roof replacement.

Lake San Antonio-South Shore: Repair electrical pedestals at campsites; remove ten (10) mobile housing units and convert pads to premium recreational vehicle (RV) campsites.

Lake Nacimiento: Replace bathroom roof and remove three (3) dilapidated modular units and replace with new modular unit that will house the public laundry facility.

California State Parks approved the four (4) project applications, and the 2018 Parks Bond Act Per Capita Program Grant Contract was executed March 7, 2022 (Exhibit B to Attachments A and B) and \$631,430 was awarded for the approved projects. Per the provisions outlined in the Per Capita Program Procedural Guide (Attachment C), the County is required to record a thirty (30) year Deed Restriction on the property title of County owned project sites to ensure that the project sites will remain open for public use and recreation for thirty (30) years. The Deed Restriction language is prescribed by California State Parks. Toro Park and Jacks Peak Park are comprised of many parcels

and the Deed Restrictions only restrict the project site parcel at each park. The Lake Nacimiento and Lake San Antonio project sites are not subject to the Per Capita Program Deed Restriction requirement as they are owned by Monterey County Water Resources Agency and managed by the County. Authorizing the Director of PWFP to execute and record a thirty (30) year Deed Restriction for Toro Park (Attachment A) and Jacks Peak Park (Attachment B) will fulfill the Deed Restriction requirement for the Per Capita Program.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed and approved the Deed Restrictions for both parks as to form.

FINANCING:

A total amount of \$631,430 was awarded to the County for the approved Per Capita Program projects. However, a twenty percent (20%) cash match is required for the approved Per Capita Program projects. The BOS approved using \$157,858 in American Reuse Plan Act (ARPA) funds to meet the required match in the Fiscal Year (FY) 2021-22 and FY 2022-23 PWFP Adopted Budgets, Facilities Master Plan Project Fund 404, Appropriation Unit PFP057.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action supports the BOS Strategic Initiatives for Administration, Health & Human Services, Infrastructure, and Public Safety by proactively seeking grant funding to enhance the County's ability to facilitate infrastructure projects and offer improved facilities and safe public recreation experiences for the community.

- ☐ Economic Development
- ☒ Administration
- ☒ Health & Human Services
- ☒ Infrastructure
- ☒ Public Safety

Prepared by: Janie Bettencourt, Management Analyst II (831) 755-5184

Reviewed by: Bryan Flores, Chief of Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities and Parks

DocuSigned by:
Randell Ishii
C09779208FE94F3...

Attachments:

Attachment A - Draft Deed Restriction for Toro Park

Attachment B - Draft Deed Restriction for Jacks Peak Park

Attachment C - Per Capita Program Procedural Guide

(Attachments are on file with the Clerk of the Board)

Attachment A

RECORDING REQUESTED BY:

California Department of Parks and Recreation
Office of Grants and Local Services

WHEN RECORDED MAIL TO:

Office of Grants and Local Services
PO Box 942896
Sacramento, CA 94296-0001
Attn: Thina Nguyen

No Fee – Government Code 27383

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

Property owner is Government Agency

DEED RESTRICTION

This DEED RESTRICTION is made as of the last date opposite the respective signatures below by the County of Monterey, a political subdivision of the State of California ("County") with reference to the following facts and circumstances:

I. WHEREAS, the County of Monterey, (hereinafter referred to as "Owner" is the recorded owner in fee of that certain real property (Assessor's Parcel Number: 161-011-071) particularly described in **Exhibit A**, attached and incorporated herein by reference (hereinafter referred to as the "Property"); and

II. WHEREAS, the California Department of Parks and Recreation (hereinafter referred to as "DPR") is a public agency created and existing under the authority of section 5001 of the California Public Resources Code (hereinafter referred to as the "PRC"); and

III. WHEREAS, Owner applied to DPR for grant funds available pursuant to the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All of 2018 Parks Bond Act, 2018 Parks Bond Act Per Capita Program for a barbecue structure replacement at Toro Park on the Property; and

IV. WHEREAS, on July 1, 2020, DPR's Office of Grants and Local Services conditionally approved Grant 18-27-022, (hereinafter referred to as "Grant") for a barbecue structure replacement at Toro Park on the Property, subject to, among other conditions, recordation of this Deed Restriction on the Property; and

V. WHEREAS, but for the imposition of the Deed Restriction condition of the Grant, the Grant would not be consistent with the public purposes of the 2018 Parks Bond Act, 2018 Parks Bond Act Per Capita Program and the funds that are the subject of the Grant could therefore not have been allocated; and

VI. WHEREAS, Owner has elected to comply with the Deed Restriction requirement of the Grant, so as to enable Owner, to receive the Grant funds and perform the work described in the Grant;

NOW, THEREFORE, in consideration of the issuance of the Grant funds by DPR, the undersigned Owner for themselves and for their heirs, assigns, and successors-in-interest, hereby irrevocably covenant(s) with DPR that the condition of the grant (set forth at paragraph(s) 1 through 6 and in **Exhibit B** hereto) shall at all times on and after the date on which this Deed Restriction is recorded constitute for all purposes covenants, conditions and restrictions on the use and enjoyment of the Property that are hereby attached to the deed to the Property as fully effective components thereof.

1. DURATION. This Deed Restriction shall remain in full force and effect and shall bind Owner and all their assigns or successors-in-interest and run with the land for the period running from July 1, 2018 through June 30, 2048.

2. TAXES AND ASSESSMENTS. It is intended that this Deed Restriction is irrevocable and shall constitute an enforceable restriction within the meaning of a) Article XIII, section 8, of the California Constitution; and b) section 402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, this Deed Restriction shall be deemed to constitute a servitude upon and burden to the Property within the meaning of section 3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

3. RIGHT OF ENTRY. DPR or its agent or employees may enter onto the Property at times reasonably acceptable to Owner to ascertain whether the use restrictions set forth above are being observed.

4. REMEDIES. Any act, conveyance, contract, or authorization by Owner whether written or oral which uses or would cause to be used or would permit use of the Property contrary to the terms of

this Deed Restriction will be deemed a violation and a breach hereof. DPR may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of this Deed Restriction up to and including a lien sale of the property. In the event of a breach, any forbearance on the part of DPR to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

5. ENFORCEMENT. The provisions of this Deed Restriction are declared to be specifically enforceable through this recorded instrument and through any and all applicable federal, state, or local laws, regulations and ordinances, as may be amended from time to time.

6. SEVERABILITY. If any provision of these restrictions is held to be invalid, or for any reason becomes unenforceable, no other provision shall be affected or impaired.

IN WITNESS WHEREOF, the County of Monterey has caused this DEED RESTRICTION to be effective as of the last date opposite the respective signatures below.

OWNER

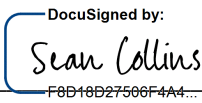
County of Monterey, a political subdivision of the State of California

By: _____
 Randell Ishii, MS, PE, TE, PTOE
 Director of Public Works, Facilities and Parks

Date: _____

Approved as to Form:

Office of the County Counsel
 Leslie J. Girard, County Counsel

By:  _____
 Sean Collins
 Deputy County Counsel

Date: 9/9/2022 | 8:26 AM PDT

****NOTARY ACKNOWLEDGEMENT ON THE NEXT PAGE****

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

[illegible]

On _____ before me, _____,

a Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)

EXHIBIT "A"
Legal description
Toro Park – Barbecue Site

Situate in Rancho El Toro in the County of Monterey, State of California, being a portion of that certain 139.03 acre parcel of land described as Parcel 4 in that certain deed from Agnes Marks, et al, to County of Monterey, dated September 13, 1968, and recorded November 12, 1968, in Reel 580 of Official Records, at Page 906, Records of Monterey County, said portion being resurveyed and shown on that certain "Record of Survey of Toro Regional Park..." filed for record October 9, 1970 in Volume 9 of Surveys, at Page 115, Records of Monterey County, said resurveyed portion of said Parcel 4 being more particularly described as follows:

BEGINNING at a 1" diameter iron pipe with Monterey County Disc set to replace a 4" x 4" post standing in the southeasterly line of the Salinas-Monterey Highway (80.0 feet wide), being at the most northerly corner of Toro Park, a Monterey County Park and at the most westerly corner of that certain 1.777 acre parcel of land conveyed from Alberto Grossi, et al, to James Corda, by deed dated September 3, 1936 and recorded in Volume 495 of Official Records, at Page 142, Monterey County Records; thence from said place of beginning and along the southerly boundary of said 1.777 acre parcel, being also the northerly boundary of Toro Park

- 1) S. 59°36'24" E., 90.39 feet to a 4" x 4" post standing at the most southerly corner of said 1.777 acre parcel; thence leaving said southerly boundary
- 2) S. 47°08'57" E., 1811.73 feet (1865.62 feet, map) to a point on the southeasterly boundary of the Rancho El Toro, from which a 40" diameter Live Oak tree standing at Patent Survey corner BV2 of the Rancho Buena Vista bears N. 34°32'24" E., 79.9 feet distant; thence leaving said northerly Park boundary and along said southeasterly boundary of the Rancho El Toro
- 3) S. 34°32'24" W., 409.53 feet (409.60 feet, map) to a 4" x 4" post; thence
- 4) S. 34°36'36" W., 459.45 feet to a 4" x 4" post; thence
- 5) S. 34°05'30" W., 1548.12 feet to a 1-1/2" diameter iron pipe standing at an angle point in the westerly boundary of Toro Park, being the most southerly corner of the aforesaid Parcel 4; thence leaving the southeasterly boundary of Rancho El Toro and along said westerly Park boundary, being also the boundary of said Parcel 4
- 6) N. 55°59'48" W., 1699.58 feet to a point in the aforesaid southeasterly line of the Salinas-Monterey Highway; thence along said highway line
- 7) N. 30°23'36" E., 2695.36 feet to the point of beginning.

CONTAINING an area of 104.959 acres of land, more or less.

The above bearings and distances are based on the California Coordinate System 1927 Zone IV. To obtain bearings relative to true north, the grid bearings shown must be rotated clockwise approximately 1°36'03". To obtain ground level distances, multiply the distances shown by 1.0000806.

This legal description was prepared by me or under my direction.



Michael K. Goetz – PLS 5667
 County Surveyor – Monterey County, California

Dated: June 7, 2022



State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

GRANT CONTRACT
2018 Parks Bond Act
Per Capita Grant Program

GRANTEE County of Monterey

THE PROJECT PERFORMANCE PERIOD is from July 01, 2018 through June 30, 2024

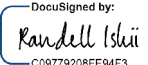
CONTRACT PERFORMANCE PERIOD is from July 01, 2018 through June 30, 2048

The GRANTEE agrees to the terms and conditions of this Contract, and the State of California, acting through its Director of the Department of Parks and Recreation, pursuant to the State of California, agrees to fund the total State grant amount indicated below.

The GRANTEE agrees to complete the GRANT SCOPE(s) as defined in the GRANT SCOPE/Cost Estimate Form or acquisition documentation for the application(s) filed with the State of California.

The General and Special Provisions attached are made a part of and incorporated into the Contract.


County of Monterey

By  Randell Ishii
C09779208FE94F3... (signature of Authorized Representative)

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

Title Director of Public Works, Facilities, & Parks

By


708FDA4C8D9E41C...

Date 2/16/2022 | 10:31 AM PST

Date

3/7/2022

CERTIFICATION OF FUNDING
(For State Use Only)

CONTRACT NO C9801088	AMENDMENT NO	FISCAL SUPPLIER I.D. 0000004485			PROJECT NO. 18-27-019, 18-27-020, 18-27-021, 18-27-022
AMOUNT ENCUMBERED BY THIS DOCUMENT \$631,430.00		FUND. Drought, Water, Cln Air, Cstl Protc, Outdoor Fund			
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT	ITEM 3790-101-6088	CHAPTER 29	STATUTE 18	FISCAL YEAR 2021/22	
TOTAL AMOUNT ENCUMBERED TO DATE \$ \$631,430.00	Reporting Structured. 37900091	Account/Alt Account. 5432000-5432000000	ACTIVITY CODE 69806	PROJECT / WORK PHASE 379000001827019 , 379000001827020, 379000001827021, 379000001827022	

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

I. RECITALS

This CONTRACT is entered into between the California Department of Parks and Recreation (hereinafter referred to as “GRANTOR,” “DEPARTMENT” or “STATE”) and County of Monterey (hereinafter referred to as “GRANTEE”).

The DEPARTMENT hereby grants to GRANTEE a sum (also referred to as “GRANT MONIES”) not to exceed \$631,430, subject to the terms and conditions of this AGREEMENT and the 2018/19 California State Budget, Chapter 29, statutes of 2018, Item number – 3790-101-6088 (appropriation chapter and budget item number hereinafter referred to as “PER CAPITA GRANT”). These funds shall be used for completion of the GRANT SCOPE(S).

The Grant Performance Period is from July 01, 2018 to June 30, 2024.

II. GENERAL PROVISIONS**A. Definitions**

As used in this CONTRACT, the following words shall have the following meanings:

1. The term “ACT” means the California Drought, Water, Parks Climate, Coastal Protection, and Outdoor Access for All Act of 2018, as referred to in section I of this CONTRACT.
2. The term “APPLICATION” means the individual project APPLICATION packet for a project pursuant to the enabling legislation and/or grant program process guide requirements.
3. The term “DEPARTMENT” or “STATE” means the California Department of Parks and Recreation.
4. The term “DEVELOPMENT” means capital improvements to real property by means of, but not limited to, construction, expansion, and/or renovation, of permanent or fixed features of the property.
5. The term “GRANTEE” means the party described as the GRANTEE in Section I of this CONTRACT.
6. The term “GRANT SCOPE” means the items listed in the GRANT SCOPE/Cost Estimate Form or acquisition documentation found in each of the APPLICATIONS submitted pursuant to this grant.
7. The term “PROCEDURAL GUIDE” means the document identified as the “Procedural Guide for California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 Per Capita Program.” The

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

PROCEDURAL GUIDE provides the procedures and policies controlling the administration of the grant.

B. Project Execution

1. Subject to the availability of GRANT MONIES, the STATE hereby grants to the GRANTEE a sum of money not to exceed the amount stated in Section I of this CONTRACT, in consideration of, and on condition that, the sum be expended in carrying out the purposes as set forth in the scope described in the enabling legislation and referenced in the APPLICATION, Section I of this CONTRACT, and under the terms and conditions set forth in this CONTRACT.

The GRANTEE shall assume any obligation to furnish any additional funds that may be necessary to complete the GRANT SCOPE(S).

The GRANTEE agrees to submit any change or alteration from the original GRANT SCOPE(S) in writing to the STATE for prior approval. This applies to any and all changes that occur after STATE has approved the APPLICATION. Changes in the GRANT SCOPE(S) must be approved in writing by the STATE.

2. The GRANTEE shall complete the GRANT SCOPE(S) in accordance with the time of the Performance Period set forth in Section I of this CONTRACT, and under the terms and conditions of this CONTRACT.
3. The GRANTEE shall comply with the California Environmental Quality Act (Public Resources Code, Section 21000, et seq., Title 14, California Code of Regulations, Section 15000 et seq.).
4. The GRANTEE shall comply with all applicable current laws and regulations affecting DEVELOPMENT projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities, including but not limited to the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and the California Unruh Act (California Civil Code §51 et seq.).

C. Project Costs

1. GRANTEE agrees to abide by the PROCEDURAL GUIDE.
2. GRANTEE acknowledges that STATE may make reasonable changes to its procedures as set forth in the PROCEDURAL GUIDE. If STATE makes any changes to its procedures and guidelines, STATE agrees to notify GRANTEE within a reasonable time.

D. Project Administration

1. If GRANT MONIES are advanced for DEVELOPMENT projects, the advanced funds shall be placed in an interest bearing account until expended. Interest earned on the advanced funds shall be used on the project as approved by the STATE. If grant monies are advanced and not expended, the unused portion of the

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

grant and any interest earned shall be returned to the STATE within 60 days after project completion or end of the Grant Performance Period, whichever is earlier.

2. The GRANTEE shall submit written project status reports within 30 calendar days after the STATE has made such a request. In any event, the GRANTEE shall provide the STATE a report showing total final project expenditures within 60 days of project completion or the end of the grant performance period, whichever is earlier. The Grant Performance Period is identified in Section I of this CONTRACT.
3. The GRANTEE shall make property or facilities acquired and/or developed pursuant to this contract available for inspection upon request by the STATE.

E. Project Termination

1. Project Termination refers to the non-completion of a GRANT SCOPE. Any grant funds that have not been expended by the GRANTEE shall revert to the STATE.
2. The GRANTEE may unilaterally rescind this CONTRACT at any time prior to the commencement of the project. The commencement of the project means the date of the letter notifying GRANTEE of the award or when the funds are appropriated, whichever is later. After project commencement, this CONTRACT may be rescinded, modified or amended only by mutual agreement in writing between the GRANTEE and the STATE, unless the provisions of this CONTRACT provide that mutual agreement is not required.
3. Failure by the GRANTEE to comply with the terms of the (a) PROCEDURAL GUIDE, (b) any legislation applicable to the ACT, (c) this CONTRACT as well as any other grant contracts, specified or general, that GRANTEE has entered into with STATE, may be cause for suspension of all obligations of the STATE unless the STATE determines that such failure was due to no fault of the GRANTEE. In such case, STATE may reimburse GRANTEE for eligible costs properly incurred in performance of this CONTRACT despite non-performance of the GRANTEE. To qualify for such reimbursement, GRANTEE agrees to mitigate its losses to the best of its ability.
4. Any breach of any term, provision, obligation or requirement of this CONTRACT by the GRANTEE shall be a default of this CONTRACT. In the case of any default by GRANTEE, STATE shall be entitled to all remedies available under law and equity, including but not limited to: a) Specific Performance; b) Return of all GRANT MONIES; c) Payment to the STATE of the fair market value of the project property or the actual sales price, whichever is higher; and d) Payment to the STATE of the costs of enforcement of this CONTRACT, including but not limited to court and arbitration costs, fees, expenses of litigation, and reasonable attorney fees.
5. The GRANTEE and the STATE agree that if the GRANT SCOPE includes DEVELOPMENT, final payment may not be made until the work described in the GRANT SCOPE is complete and the GRANT PROJECT is open to the public.

F. Budget Contingency Clause

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

If funding for any fiscal year is reduced or deleted by the budget act for purposes of this program, the STATE shall have the option to either cancel this contract with no liability occurring to the STATE, or offer a CONTRACT amendment to GRANTEE to reflect the reduced grant amount. This Paragraph shall not require the mutual agreement as addressed in Paragraph E, provision 2, of this CONTRACT.

G. Hold Harmless

1. The GRANTEE shall waive all claims and recourse against the STATE including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this CONTRACT except claims arising from the concurrent or sole negligence of the STATE, its officers, agents, and employees.
2. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the ACQUISITION, DEVELOPMENT, construction, operation or maintenance of the property described as the project which claims, demands or causes of action arise under California Government Code Section 895.2 or otherwise except for liability arising out of the concurrent or sole negligence of the STATE, its officers, agents, or employees.
3. The GRANTEE agrees that in the event the STATE is named as codefendant under the provisions of California Government Code Section 895 et seq., the GRANTEE shall notify the STATE of such fact and shall represent the STATE in the legal action unless the STATE undertakes to represent itself as codefendant in such legal action in which event the GRANTEE agrees to pay the STATE's litigation costs, expenses, and reasonable attorney fees.
4. The GRANTEE and the STATE agree that in the event of judgment entered against the STATE and the GRANTEE because of the concurrent negligence of the STATE and the GRANTEE, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request a jury apportionment.
5. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, costs, expenses or liability costs arising out of legal actions pursuant to items to which the GRANTEE has certified. The GRANTEE acknowledges that it is solely responsible for compliance with items to which it has certified.

H. Financial Records

1. The GRANTEE shall maintain satisfactory financial accounts, documents, including loan documents, and all other records for the project and to make them available to the STATE for auditing at reasonable times. The GRANTEE also agrees to retain such financial accounts, documents and records for five years following project

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

termination or issuance of final payment, whichever is later.

2. The GRANTEE shall keep such records as the STATE shall prescribe, including records which fully disclose (a) the disposition of the proceeds of STATE funding assistance, (b) the total cost of the project in connection with such assistance that is given or used, (c) the amount and nature of that portion of the project cost supplied by other sources, and (d) any other such records that will facilitate an effective audit.
3. The GRANTEE agrees that the STATE shall have the right to inspect and make copies of any books, records or reports pertaining to this contract or matters related thereto during regular office hours. The GRANTEE shall maintain and make available for inspection by the STATE accurate records of all of its costs, disbursements and receipts with respect to its activities under this contract. Such accounts, documents, and records shall be retained by the GRANTEE for at least five years following project termination or issuance of final payment, whichever is later.
4. The GRANTEE shall use a generally accepted accounting system.

I. Use of Facilities

1. The GRANTEE agrees that the GRANTEE shall operate and maintain the property acquired or developed with the GRANT MONIES, for the duration of the Contract Performance Period.
2. The GRANTEE agrees that, during the Contract Performance Period, the GRANTEE shall use the property acquired or developed with GRANT MONIES under this contract only for the purposes of this grant and no other use, sale, or other disposition or change of the use of the property to one not consistent with its purpose shall be permitted except as authorized by the STATE and the property shall be replaced with property of equivalent value and usefulness as determined by the STATE.
3. The property acquired or developed may be transferred to another entity if the successor entity assumes the obligations imposed under this CONTRACT and with the approval of STATE.
4. Any real Property (including any portion of it or any interest in it) may not be used as security for any debt or mitigation, without the written approval of the STATE provided that such approval shall not be unreasonably withheld as long as the purposes for which the Grant was awarded are maintained. Any such permission that is granted does not make the STATE a guarantor or a surety for any debt or mitigation, nor does it waive the STATE'S rights to enforce performance under the Grant CONTRACT.

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

5. All real property, or rights thereto, acquired with GRANT MONIES shall be subject to an appropriate form of restrictive title, rights, or covenants approved by the STATE. If the project property is taken by use of eminent domain, GRANTEE shall reimburse STATE an amount at least equal to the amount of GRANT MONIES received from STATE or the pro-rated full market value of the real property, including improvements, at the time of sale, whichever is higher.
6. If eminent domain proceedings are initiated against GRANTEE, GRANTEE shall notify STATE within 10 days of receiving the complaint.

J. Nondiscrimination

1. The GRANTEE shall not discriminate against any person on the basis of sex, race, color, national origin, age, religion, ancestry, sexual orientation, or disability in the use of any property or facility developed pursuant to this contract.
2. The GRANTEE shall not discriminate against any person on the basis of residence except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.
3. All facilities shall be open to members of the public generally, except as noted under the special provisions of this project contract or under provisions of the enabling legislation and/or grant program.

K. Severability

If any provision of this CONTRACT or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the CONTRACT which can be given effect without the invalid provision or application, and to this end the provisions of this CONTRACT are severable.

L. Liability

1. STATE assumes no responsibility for assuring the safety or standards of construction, site improvements or programs related to the GRANT SCOPE. The STATE'S rights under this CONTRACT to review, inspect and approve the GRANT SCOPE and any final plans of implementation shall not give rise to any warranty or representation that the GRANT SCOPE and any plans or improvements are free from hazards or defects.
2. GRANTEE will secure adequate liability insurance, performance bond, and/or other security necessary to protect the GRANTEE'S and STATE'S interest against poor workmanship, fraud, or other potential loss associated with completion of the grant project.

M. Assignability

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

Without the written consent of the STATE, the GRANTEE'S interest in and responsibilities under this CONTRACT shall not be assignable by the GRANTEE either in whole or in part.

N. Use of Grant Monies

GRANTEE shall not use any grant funds (including any portion thereof) for the purpose of making any leverage loan, pledge, promissory note or similar financial device or transaction, without: 1) the prior written approval of the STATE; and 2) any financial or legal interests created by any such leverage loan, pledge, promissory note or similar financial device or transaction in the project property shall be completely subordinated to this CONTRACT through a Subordination Agreement provided and approved by the STATE, signed by all parties involved in the transaction, and recorded in the County Records against the fee title of the project property.

O. Section Headings

The headings and captions of the various sections of this CONTRACT have been inserted only for the purpose of convenience and are not a part of this CONTRACT and shall not be deemed in any manner to modify, explain, or restrict any of the provisions of this CONTRACT.

P. Waiver

Any failure by a party to enforce its rights under this CONTRACT, in the event of a breach, shall *not* be construed as a waiver of said rights; and the waiver of any breach under this CONTRACT shall *not* be construed as a waiver of any subsequent breach.

County of Monterey

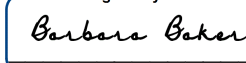
GRANTEE

By: 
C09779208FE94F3...
Signature of Authorized Representative

Title: Director of Public Works, Facilities, & Parks

Date: 2/16/2022 | 10:31 AM PST

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

By: 
708FDA4C8D9E41C...

Date: 3/7/2022

Attachment B

RECORDING REQUESTED BY:

California Department of Parks and Recreation
Office of Grants and Local Services

WHEN RECORDED MAIL TO:

Office of Grants and Local Services
PO Box 942896
Sacramento, CA 94296-0001
Attn: Thina Nguyen

No Fee – Government Code 27383

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

Property owner is Government Agency

DEED RESTRICTION

This DEED RESTRICTION is made as of the last date opposite the respective signatures below by the County of Monterey, a political subdivision of the State of California ("County") with reference to the following facts and circumstances:

I. WHEREAS, the County of Monterey, (hereinafter referred to as "Owner" is the recorded owner in fee of that certain real property (Assessor's Parcel Number: 103-071-013) particularly described in **Exhibit A**, attached and incorporated herein by reference (hereinafter referred to as the "Property"); and

II. WHEREAS, the California Department of Parks and Recreation (hereinafter referred to as "DPR") is a public agency created and existing under the authority of section 5001 of the California Public Resources Code (hereinafter referred to as the "PRC"); and

III. WHEREAS, Owner applied to DPR for grant funds available pursuant to the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All of 2018 Parks Bond Act, 2018 Parks Bond Act Per Capita Program for restroom enhancements at Jacks Peak Park on the Property; and

IV. WHEREAS, on July 1, 2020, DPR's Office of Grants and Local Services conditionally approved Grant 18-27-019, (hereinafter referred to as "Grant") for restroom enhancements at Jacks Peak Park on the Property, subject to, among other conditions, recordation of this Deed Restriction on the Property; and

V. WHEREAS, but for the imposition of the Deed Restriction condition of the Grant, the Grant would not be consistent with the public purposes of the 2018 Parks Bond Act, 2018 Parks Bond Act Per Capita Program and the funds that are the subject of the Grant could therefore not have been allocated; and

VI. WHEREAS, Owner has elected to comply with the Deed Restriction requirement of the Grant, so as to enable Owner, to receive the Grant funds and perform the work described in the Grant;

NOW, THEREFORE, in consideration of the issuance of the Grant funds by DPR, the undersigned Owner for themselves and for their heirs, assigns, and successors-in-interest, hereby irrevocably covenant(s) with DPR that the condition of the grant (set forth at paragraph(s) 1 through 6 and in **Exhibit B** hereto) shall at all times on and after the date on which this Deed Restriction is recorded constitute for all purposes covenants, conditions and restrictions on the use and enjoyment of the Property that are hereby attached to the deed to the Property as fully effective components thereof.

1. DURATION. This Deed Restriction shall remain in full force and effect and shall bind Owner and all their assigns or successors-in-interest and run with the land for the period running from July 1, 2018 through June 30, 2048.

2. TAXES AND ASSESSMENTS. It is intended that this Deed Restriction is irrevocable and shall constitute an enforceable restriction within the meaning of a) Article XIII, section 8, of the California Constitution; and b) section 402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, this Deed Restriction shall be deemed to constitute a servitude upon and burden to the Property within the meaning of section 3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

3. RIGHT OF ENTRY. DPR or its agent or employees may enter onto the Property at times reasonably acceptable to Owner to ascertain whether the use restrictions set forth above are being observed.

4. REMEDIES. Any act, conveyance, contract, or authorization by Owner whether written or oral which uses or would cause to be used or would permit use of the Property contrary to the terms of

this Deed Restriction will be deemed a violation and a breach hereof. DPR may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of this Deed Restriction up to and including a lien sale of the property. In the event of a breach, any forbearance on the part of DPR to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

5. ENFORCEMENT. The provisions of this Deed Restriction are declared to be specifically enforceable through this recorded instrument and through any and all applicable federal, state, or local laws, regulations and ordinances, as may be amended from time to time.

6. SEVERABILITY. If any provision of these restrictions is held to be invalid, or for any reason becomes unenforceable, no other provision shall be affected or impaired.

IN WITNESS WHEREOF, the County of Monterey has caused this DEED RESTRICTION to be effective as of the last date opposite the respective signatures below.

OWNER


County of Monterey, a political subdivision of the State of California

By: _____
 Randell Ishii, MS, PE, TE, PTOE
 Director of Public Works, Facilities and Parks

Date: _____

Approved as to Form:

Office of the County Counsel
 Leslie J. Girard, County Counsel

By:  _____
 F8D18D27506F4A4...

Sean Collins
 Deputy County Counsel

Date: 9/9/2022 | 8:26 AM PDT

****NOTARY ACKNOWLEDGEMENT ON THE NEXT PAGE****

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

[illegible]

On _____ before me, _____,

a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)

EXHIBIT "A"
Legal description
Jacks Peak Park – Restroom Site

Situate in Rancho Aguajito, County of Monterey, State of California and being that certain 180.89 acre parcel of land described in Exhibit D of that certain deed from Del Monte Properties Company to County of Monterey, dated September 3, 1971, and recorded September 20, 1971, in Reel 726 of Official Records, at Page 112, Records of Monterey County, said 180.89 acre parcel being more particularly described as follows:

Beginning at a 4" x 4" post marked "S-6" standing at the most westerly corner of the Rancho Saucito, as said Rancho and post are shown and so designated on that certain map entitled "Record of Survey of the Northerly Boundary of Jacks Peak Park Addition No. 2..." filed for record June 28, 1971, in Volume 10 of Surveys, at Page 30, Records of Monterey County; said 4" x 4" post also being shown and so designated on that certain map entitled "Plat of Saucito Rancho...", filed for record June 29, 1880 in Volume 1 of Map and Grants (Outside Lands), at Page 16, Records of Monterey County; thence from said place of beginning and along the westerly boundary of said Saucito Rancho the following two courses:

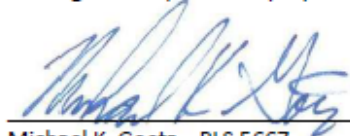
- 1) N. 31°19'11" E., 208.58 feet to a 4" x 4" post marked "AR-SR 14"; thence
- 2) N. 31°19'51" E., 204.98 feet to a 1" iron pipe with Monterey County Disc in rock mound; standing at the intersection of said westerly boundary of Saucito Rancho and said northerly boundary of said Jacks Peak Park Addition No. 2; thence leaving said westerly boundary of Saucito Rancho and along said northerly boundary of Jacks Peak Park Addition No. 2
- 3) S. 66°08'08" W., 883.63 feet to a 1" iron pipe with Monterey County Disc in rock mound; thence
- 4) N. 73°10'51" W., 1699.07 feet to a 1" iron pipe with Monterey County Disc in rock mound; thence
- 5) S. 83°03'54" W., 747.43 feet to a 1" iron pipe with Monterey County Disc in rock mound; thence
- 6) S. 72°40'09" W., 421.17 feet to a 2" x 2" stake with L.S. Disc No. 2975, located on the northerly right of way line of Loma Alta Road, a County road 80 feet wide; as said road is shown and so designated on that certain map entitled "Record of Survey of Portions of Aguajito Rancho and Los Ranchitos De Aguajito...", filed for record June 10, 1971, in Volume 10 of Surveys at Page 22, Records of Monterey County; said road also being so described in Volume 731 of Official Records, at Page 37, Records of Monterey County; thence leaving said northerly boundary of said Jacks Peak Park Addition No. 2 and said northerly right of way line of Loma Alta Road
- 7) S. 22°53'13" E., 50.61 feet to a point on the easterly right of way line of said Loma Alta Road, said point being a 2" x 2" stake with L.S. Disc No. 1975; thence along said easterly right of way line
- 8) S. 13°58'13" E., 30.00 feet to the southerly right of way line of said Loma Alta Road; said point being a 2" x 2" stake with L.S. Disc No. 2975; thence along said southerly right of way line
- 9) S. 76°01'47" W., 22.16 feet to a 2" x 2" stake with L.S. Disc No. 2975 standing at the most northeasterly corner of Lot Number 14, as said lot is shown and so designated on the aforesaid map filed in Volume 10 of Surveys, at Page 22, said lot also being shown on that certain Map entitled "Los Ranchitos De Aguajito", filed in Volume 2 of Surveys, at Page 47, Records of Monterey County; thence along the easterly line of said Lot 14

10) S. 13°18'04" W., 1777.61 feet to a 4" x 4" post marked "AR, 17 CS" standing at the southeast corner of said Lot 14 as said post is shown on that certain map entitled "Record of Survey of Portions of Aguajito Rancho, Los Ranchitos De Aguajito & Rancho Saucito...", filed for record June 25, 1971 in Volume 10 of Surveys, at Page 29, records of Monterey County; said post also being shown on "Partition Map of Hatton Property in Rancho Canada De La Segunda ...", recorded in Book 109 of Official Records, at Page 1, Records of Monterey County, said corner being on the northerly line of said Rancho Canada De La Segunda; thence along the northerly boundary of said partition the following 8 courses as shown on the aforesaid map filed in Volume 10 of Surveys, at Page 29

- 11) S. 74°19'15" E., 848.24 feet to a 4" x 4" post (charred); thence
- 12) S. 74°18'57" E., 543.74 feet to a 4" x 4" post (charred); thence
- 13) S. 74°17'47" E., 303.40 feet to a 4" x 4" post marked "AR, CS 20"; thence
- 14) S. 74°17'48" E., 308.83 feet to a 4" x 4" post marked "CS, HH. Mc. A"; thence
- 15) S. 74°15'18" E., 184.64 feet to a 5" x 6" post marked "L7, Mc. A, W.D, L-6, H.H."; thence
- 16) S. 74°34'18" E., 48.78 feet to a 4" x 4" post (charred); thence
- 17) S. 74°15'58" E., 885.79 feet to a 4" x 4" post marked "A.R., C.S. 22"; thence
- 18) S. 74°14'49" E., 315.22 feet to a 4" x 4" post marked "A.R., C.S. 23"; thence leaving said northerly boundary of said partition
- 19) N. 10°28'36" E., 2511.98 feet to the place of beginning.

CONTAINING an area of 180.89 acres of land.

This legal description was prepared by me or under my direction.



Michael K. Goetz – PLS 5667
County Surveyor
Monterey County, California

June 7, 2022



State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

GRANT CONTRACT
2018 Parks Bond Act
Per Capita Grant Program

GRANTEE County of Monterey

THE PROJECT PERFORMANCE PERIOD is from July 01, 2018 through June 30, 2024

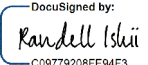
CONTRACT PERFORMANCE PERIOD is from July 01, 2018 through June 30, 2048

The GRANTEE agrees to the terms and conditions of this Contract, and the State of California, acting through its Director of the Department of Parks and Recreation, pursuant to the State of California, agrees to fund the total State grant amount indicated below.

The GRANTEE agrees to complete the GRANT SCOPE(s) as defined in the GRANT SCOPE/Cost Estimate Form or acquisition documentation for the application(s) filed with the State of California.

The General and Special Provisions attached are made a part of and incorporated into the Contract.

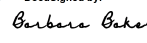
County of Monterey

By  Randell Ishii
C09779208FE94F3... (signature of Authorized Representative)

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

Title Director of Public Works, Facilities, & Parks

By


708FDA4C8D9E41C...

Date 2/16/2022 | 10:31 AM PST

Date

3/7/2022

CERTIFICATION OF FUNDING
(For State Use Only)

CONTRACT NO C9801088	AMENDMENT NO	FISCAL SUPPLIER I.D. 0000004485	PROJECT NO. 18-27-019, 18-27-020, 18-27-021, 18-27-022
AMOUNT ENCUMBERED BY THIS DOCUMENT \$631,430.00	FUND. Drought, Water, Cln Air, Cstl Protc, Outdoor Fund		
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT	ITEM 3790-101-6088	CHAPTER 29	STATUTE 18
TOTAL AMOUNT ENCUMBERED TO DATE \$ \$631,430.00	Reporting Structured. 37900091	Account/Alt Account. 5432000-5432000000	ACTIVITY CODE 69806
PROJECT / WORK PHASE 379000001827019, 379000001827020, 379000001827021, 379000001827022			
FISCAL YEAR 2021/22			

Exhibit B

State of California - Natural Resources Agency

DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT

2018 Parks Bond Act, Per Capita Grant Program

I. RECITALS

This CONTRACT is entered into between the California Department of Parks and Recreation (hereinafter referred to as "GRANTOR," "DEPARTMENT" or "STATE") and County of Monterey (hereinafter referred to as "GRANTEE").

The DEPARTMENT hereby grants to GRANTEE a sum (also referred to as "GRANT MONIES") not to exceed \$631,430, subject to the terms and conditions of this AGREEMENT and the 2018/19 California State Budget, Chapter 29, statutes of 2018, Item number – 3790-101-6088 (appropriation chapter and budget item number hereinafter referred to as "PER CAPITA GRANT"). These funds shall be used for completion of the GRANT SCOPE(S).

The Grant Performance Period is from July 01, 2018 to June 30, 2024.

II. GENERAL PROVISIONS**A. Definitions**

As used in this CONTRACT, the following words shall have the following meanings:

1. The term "ACT" means the California Drought, Water, Parks Climate, Coastal Protection, and Outdoor Access for All Act of 2018, as referred to in section I of this CONTRACT.
2. The term "APPLICATION" means the individual project APPLICATION packet for a project pursuant to the enabling legislation and/or grant program process guide requirements.
3. The term "DEPARTMENT" or "STATE" means the California Department of Parks and Recreation.
4. The term "DEVELOPMENT" means capital improvements to real property by means of, but not limited to, construction, expansion, and/or renovation, of permanent or fixed features of the property.
5. The term "GRANTEE" means the party described as the GRANTEE in Section I of this CONTRACT.
6. The term "GRANT SCOPE" means the items listed in the GRANT SCOPE/Cost Estimate Form or acquisition documentation found in each of the APPLICATIONS submitted pursuant to this grant.
7. The term "PROCEDURAL GUIDE" means the document identified as the "Procedural Guide for California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 Per Capita Program." The

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

PROCEDURAL GUIDE provides the procedures and policies controlling the administration of the grant.

B. Project Execution

1. Subject to the availability of GRANT MONIES, the STATE hereby grants to the GRANTEE a sum of money not to exceed the amount stated in Section I of this CONTRACT, in consideration of, and on condition that, the sum be expended in carrying out the purposes as set forth in the scope described in the enabling legislation and referenced in the APPLICATION, Section I of this CONTRACT, and under the terms and conditions set forth in this CONTRACT.

The GRANTEE shall assume any obligation to furnish any additional funds that may be necessary to complete the GRANT SCOPE(S).

The GRANTEE agrees to submit any change or alteration from the original GRANT SCOPE(S) in writing to the STATE for prior approval. This applies to any and all changes that occur after STATE has approved the APPLICATION. Changes in the GRANT SCOPE(S) must be approved in writing by the STATE.

2. The GRANTEE shall complete the GRANT SCOPE(S) in accordance with the time of the Performance Period set forth in Section I of this CONTRACT, and under the terms and conditions of this CONTRACT.
3. The GRANTEE shall comply with the California Environmental Quality Act (Public Resources Code, Section 21000, et seq., Title 14, California Code of Regulations, Section 15000 et seq.).
4. The GRANTEE shall comply with all applicable current laws and regulations affecting DEVELOPMENT projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities, including but not limited to the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and the California Unruh Act (California Civil Code §51 et seq.).

C. Project Costs

1. GRANTEE agrees to abide by the PROCEDURAL GUIDE.
2. GRANTEE acknowledges that STATE may make reasonable changes to its procedures as set forth in the PROCEDURAL GUIDE. If STATE makes any changes to its procedures and guidelines, STATE agrees to notify GRANTEE within a reasonable time.

D. Project Administration

1. If GRANT MONIES are advanced for DEVELOPMENT projects, the advanced funds shall be placed in an interest bearing account until expended. Interest earned on the advanced funds shall be used on the project as approved by the STATE. If grant monies are advanced and not expended, the unused portion of the

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

grant and any interest earned shall be returned to the STATE within 60 days after project completion or end of the Grant Performance Period, whichever is earlier.

2. The GRANTEE shall submit written project status reports within 30 calendar days after the STATE has made such a request. In any event, the GRANTEE shall provide the STATE a report showing total final project expenditures within 60 days of project completion or the end of the grant performance period, whichever is earlier. The Grant Performance Period is identified in Section I of this CONTRACT.
3. The GRANTEE shall make property or facilities acquired and/or developed pursuant to this contract available for inspection upon request by the STATE.

E. Project Termination

1. Project Termination refers to the non-completion of a GRANT SCOPE. Any grant funds that have not been expended by the GRANTEE shall revert to the STATE.
2. The GRANTEE may unilaterally rescind this CONTRACT at any time prior to the commencement of the project. The commencement of the project means the date of the letter notifying GRANTEE of the award or when the funds are appropriated, whichever is later. After project commencement, this CONTRACT may be rescinded, modified or amended only by mutual agreement in writing between the GRANTEE and the STATE, unless the provisions of this CONTRACT provide that mutual agreement is not required.
3. Failure by the GRANTEE to comply with the terms of the (a) PROCEDURAL GUIDE, (b) any legislation applicable to the ACT, (c) this CONTRACT as well as any other grant contracts, specified or general, that GRANTEE has entered into with STATE, may be cause for suspension of all obligations of the STATE unless the STATE determines that such failure was due to no fault of the GRANTEE. In such case, STATE may reimburse GRANTEE for eligible costs properly incurred in performance of this CONTRACT despite non-performance of the GRANTEE. To qualify for such reimbursement, GRANTEE agrees to mitigate its losses to the best of its ability.
4. Any breach of any term, provision, obligation or requirement of this CONTRACT by the GRANTEE shall be a default of this CONTRACT. In the case of any default by GRANTEE, STATE shall be entitled to all remedies available under law and equity, including but not limited to: a) Specific Performance; b) Return of all GRANT MONIES; c) Payment to the STATE of the fair market value of the project property or the actual sales price, whichever is higher; and d) Payment to the STATE of the costs of enforcement of this CONTRACT, including but not limited to court and arbitration costs, fees, expenses of litigation, and reasonable attorney fees.
5. The GRANTEE and the STATE agree that if the GRANT SCOPE includes DEVELOPMENT, final payment may not be made until the work described in the GRANT SCOPE is complete and the GRANT PROJECT is open to the public.

F. Budget Contingency Clause

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

If funding for any fiscal year is reduced or deleted by the budget act for purposes of this program, the STATE shall have the option to either cancel this contract with no liability occurring to the STATE, or offer a CONTRACT amendment to GRANTEE to reflect the reduced grant amount. This Paragraph shall not require the mutual agreement as addressed in Paragraph E, provision 2, of this CONTRACT.

G. Hold Harmless

1. The GRANTEE shall waive all claims and recourse against the STATE including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this CONTRACT except claims arising from the concurrent or sole negligence of the STATE, its officers, agents, and employees.
2. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the ACQUISITION, DEVELOPMENT, construction, operation or maintenance of the property described as the project which claims, demands or causes of action arise under California Government Code Section 895.2 or otherwise except for liability arising out of the concurrent or sole negligence of the STATE, its officers, agents, or employees.
3. The GRANTEE agrees that in the event the STATE is named as codefendant under the provisions of California Government Code Section 895 et seq., the GRANTEE shall notify the STATE of such fact and shall represent the STATE in the legal action unless the STATE undertakes to represent itself as codefendant in such legal action in which event the GRANTEE agrees to pay the STATE's litigation costs, expenses, and reasonable attorney fees.
4. The GRANTEE and the STATE agree that in the event of judgment entered against the STATE and the GRANTEE because of the concurrent negligence of the STATE and the GRANTEE, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request a jury apportionment.
5. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, costs, expenses or liability costs arising out of legal actions pursuant to items to which the GRANTEE has certified. The GRANTEE acknowledges that it is solely responsible for compliance with items to which it has certified.

H. Financial Records

1. The GRANTEE shall maintain satisfactory financial accounts, documents, including loan documents, and all other records for the project and to make them available to the STATE for auditing at reasonable times. The GRANTEE also agrees to retain such financial accounts, documents and records for five years following project

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

termination or issuance of final payment, whichever is later.

2. The GRANTEE shall keep such records as the STATE shall prescribe, including records which fully disclose (a) the disposition of the proceeds of STATE funding assistance, (b) the total cost of the project in connection with such assistance that is given or used, (c) the amount and nature of that portion of the project cost supplied by other sources, and (d) any other such records that will facilitate an effective audit.
3. The GRANTEE agrees that the STATE shall have the right to inspect and make copies of any books, records or reports pertaining to this contract or matters related thereto during regular office hours. The GRANTEE shall maintain and make available for inspection by the STATE accurate records of all of its costs, disbursements and receipts with respect to its activities under this contract. Such accounts, documents, and records shall be retained by the GRANTEE for at least five years following project termination or issuance of final payment, whichever is later.
4. The GRANTEE shall use a generally accepted accounting system.

I. Use of Facilities

1. The GRANTEE agrees that the GRANTEE shall operate and maintain the property acquired or developed with the GRANT MONIES, for the duration of the Contract Performance Period.
2. The GRANTEE agrees that, during the Contract Performance Period, the GRANTEE shall use the property acquired or developed with GRANT MONIES under this contract only for the purposes of this grant and no other use, sale, or other disposition or change of the use of the property to one not consistent with its purpose shall be permitted except as authorized by the STATE and the property shall be replaced with property of equivalent value and usefulness as determined by the STATE.
3. The property acquired or developed may be transferred to another entity if the successor entity assumes the obligations imposed under this CONTRACT and with the approval of STATE.
4. Any real Property (including any portion of it or any interest in it) may not be used as security for any debt or mitigation, without the written approval of the STATE provided that such approval shall not be unreasonably withheld as long as the purposes for which the Grant was awarded are maintained. Any such permission that is granted does not make the STATE a guarantor or a surety for any debt or mitigation, nor does it waive the STATE'S rights to enforce performance under the Grant CONTRACT.

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

5. All real property, or rights thereto, acquired with GRANT MONIES shall be subject to an appropriate form of restrictive title, rights, or covenants approved by the STATE. If the project property is taken by use of eminent domain, GRANTEE shall reimburse STATE an amount at least equal to the amount of GRANT MONIES received from STATE or the pro-rated full market value of the real property, including improvements, at the time of sale, whichever is higher.
6. If eminent domain proceedings are initiated against GRANTEE, GRANTEE shall notify STATE within 10 days of receiving the complaint.

J. Nondiscrimination

1. The GRANTEE shall not discriminate against any person on the basis of sex, race, color, national origin, age, religion, ancestry, sexual orientation, or disability in the use of any property or facility developed pursuant to this contract.
2. The GRANTEE shall not discriminate against any person on the basis of residence except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.
3. All facilities shall be open to members of the public generally, except as noted under the special provisions of this project contract or under provisions of the enabling legislation and/or grant program.

K. Severability

If any provision of this CONTRACT or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the CONTRACT which can be given effect without the invalid provision or application, and to this end the provisions of this CONTRACT are severable.

L. Liability

1. STATE assumes no responsibility for assuring the safety or standards of construction, site improvements or programs related to the GRANT SCOPE. The STATE'S rights under this CONTRACT to review, inspect and approve the GRANT SCOPE and any final plans of implementation shall not give rise to any warranty or representation that the GRANT SCOPE and any plans or improvements are free from hazards or defects.
2. GRANTEE will secure adequate liability insurance, performance bond, and/or other security necessary to protect the GRANTEE'S and STATE'S interest against poor workmanship, fraud, or other potential loss associated with completion of the grant project.

M. Assignability

Exhibit B

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION GRANT CONTRACT
2018 Parks Bond Act, Per Capita Grant Program

Without the written consent of the STATE, the GRANTEE'S interest in and responsibilities under this CONTRACT shall not be assignable by the GRANTEE either in whole or in part.

N. Use of Grant Monies

GRANTEE shall not use any grant funds (including any portion thereof) for the purpose of making any leverage loan, pledge, promissory note or similar financial device or transaction, without: 1) the prior written approval of the STATE; and 2) any financial or legal interests created by any such leverage loan, pledge, promissory note or similar financial device or transaction in the project property shall be completely subordinated to this CONTRACT through a Subordination Agreement provided and approved by the STATE, signed by all parties involved in the transaction, and recorded in the County Records against the fee title of the project property.

O. Section Headings

The headings and captions of the various sections of this CONTRACT have been inserted only for the purpose of convenience and are not a part of this CONTRACT and shall not be deemed in any manner to modify, explain, or restrict any of the provisions of this CONTRACT.

P. Waiver

Any failure by a party to enforce its rights under this CONTRACT, in the event of a breach, shall *not* be construed as a waiver of said rights; and the waiver of any breach under this CONTRACT shall *not* be construed as a waiver of any subsequent breach.

County of Monterey

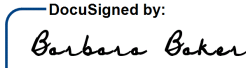
GRANTEE

By: 
C09779208FE94F3...
Signature of Authorized Representative

Title: Director of Public Works, Facilities, & Parks

Date: 2/16/2022 | 10:31 AM PST

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

By: 
708FDA4C8D9E41C...

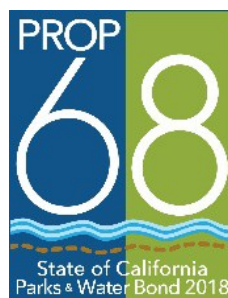
Date: 3/7/2022

Attachment C

**Procedural Guide
for the
California Drought, Water, Parks, Climate, Coastal
Protection, and Outdoor Access for All Act of 2018**

PER CAPITA PROGRAM

September 2020



**State of California
The Natural Resources Agency
Department of Parks and Recreation
Office of Grants and Local Services (OGALS)**

“Creating Community through People, Parks, and Programs”

Send correspondence to:

Street Address for Overnight Mail:

Calif. Dept. of Parks and Recreation
Office of Grants and Local Services
1416 Ninth Street, Room 918
Sacramento, CA 95814

Mailing Address:

Calif. Dept. of Parks and Recreation
Office of Grants and Local Services
P.O. Box 942896
Sacramento, CA 94296-0001

Phone: (916) 653-7423

[Website](http://www.parks.ca.gov/grants): <http://www.parks.ca.gov/grants>

2018-2019 California State Budget, Chapter 29

Budget Item 3790-101-6088 (b) - \$185,000,000 shall be available for the Local Park Rehabilitation, Creation in Urban Areas Program, consistent with subdivision (a) of Section 80061 of the Public Resources Code.

**STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION**



Department Mission

The mission of the California Department of Parks and Recreation is to provide for the health, inspiration, and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation.

Community Engagement Division Mission

The mission of the Community Engagement Division is to encourage healthy communities by connecting people to parks, supporting innovative recreational opportunities, embracing diversity, fostering inclusivity, and delivering superior customer service, with integrity for the enrichment of all.

The Office of Grants and Local Services Mission

The mission of the Office of Grants and Local Services is to address California's diverse recreational, cultural and historical resource needs by developing grant programs, administering funds, offering technical assistance, building partnerships and providing leadership through quality customer service.

OGALS VISION GOALS

To Be:

- A leader among park and recreation professionals.
- Proactive in anticipating public park and recreation needs and how new legislation and grant programs could best meet these needs.
- Honest, knowledgeable and experienced grant administration facilitators.
- Sensitive to local concerns while mindful of prevailing laws, rules and regulations.
- Perceptive to opportunities for partnerships, growth and renewal where few existed before.
- Committed to providing quality customer service in every interaction and transaction.
- Responsive to the needs of applicants, grantees, nonprofit organizations, local governments, legislative members, and department employees.

TABLE OF CONTENTS

PER CAPITA PROGRAM DESCRIPTION	4
Eligible Recipients (PRC §80062).....	4
Eligible Projects.....	5
GRANT PROCESS OVERVIEW.....	6
Authorizing Resolution	7
APPLICATION PACKET	10
Application Packet Checklist	11
Per Capita Project Application Form	12
Per Capita Match	13
Acquisition Projects.....	14
Development Projects	16
Development Project Scope/Cost Estimate Form	19
Funding Sources Form.....	20
CEQA Compliance Certification	21
Land Tenure.....	22
Site Plan.....	24
Sub-leases or Agreements.....	24
Photos.....	24
Greenhouse Gas Emissions Reduction and Carbon Sequestration.....	24
SPECIAL REQUIREMENTS.....	26
Status Report	26
Bond Act Sign	28
Deed Restriction.....	29
GRANT PAYMENTS	33
Payment Request Form	35
Grant Expenditure Form.....	35
Project Completion Packet.....	37
PER CAPITA CONTRACT	42
ACCOUNTING AND AUDITS.....	48
Accounting Requirements	49
Audit Checklist	50
REFERENCES	50
Public Resources Code relating to the Proposition 68 Per Capita program	51
Allocation Tables.....	54
ALLOCATION TRANSFER	54
DEFINITIONS	55

Words and terms shown in SMALL CAPS are in the definitions section.

Per Capita Program Summary

Background

This program originates from Proposition 68, placed on the ballot via Senate Bill 5 (DeLeon, Chapter 852, statutes of 2017), and approved by voters on June 5, 2018. Funds for the program were appropriated via State Budget item 3790-101-6088(b). Legislative program information is found in the Public Resources Code (PRC) beginning at §80000 (see page 51). OGALS retains the right to waive requirements not mandated by statute. Funds are provided for two programs, as described below:

General Per Capita Program: \$185,000,000

Funds are available for local park rehabilitation, creation, and improvement grants to local governments on a per capita basis. Grant recipients are encouraged to utilize awards to rehabilitate existing infrastructure and to address deficiencies in neighborhoods lacking access to the outdoors (PRC §80061(a)).

Urban County Per Capita: \$13,875,000

Additional funds are available for Per Capita grants to cities and districts in urbanized counties (*a county with a population of 500,000 or more*) providing park and recreation services within jurisdictions of 200,000 or less in population. An entity eligible to receive funds under this subdivision shall also be eligible to receive funds available under the General Per Capita Program (PRC §80061(b)).

Eligible Recipients (PRC §80062)

Sixty percent (60%) of the General Per Capita funds are allocated to the following entities based on population. The minimum allocation is \$200,000.

- Cities
- Eligible Districts, other than a regional park district, regional park and open-space districts, and regional open-space districts¹

Forty percent (40%) of the General Per Capita funds are allocated to the following entities based on population. The minimum allocation is \$400,000.

- Counties
- Regional park districts, regional park and open space districts, and regional open space districts

Allocations

Visit OGALS' [Per Capita webpage](http://www.parks.ca.gov/percapita) at www.parks.ca.gov/percapita for allocations.

¹ For purposes of this chapter, “district” means any regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with §5500) of Chapter 3 of Division 5, any recreation and park district formed pursuant to Chapter 4 (commencing with §5780) of Division 5, or any authority formed pursuant to Division 26 (commencing with §35100). With respect to any community or unincorporated region that is not included within a district, and in which no city or county provides parks or recreational areas or facilities, “district” also means any other entity, including, but not limited to, a district operating multiple-use parklands pursuant to Division 20 (commencing with §71000) of the Water Code.

Eligible Projects

- PROJECTS must be capital outlay for recreational purposes, either acquisition or DEVELOPMENT. Do not submit combined acquisition and DEVELOPMENT projects, rather submit separate APPLICATION PACKETS for each PROJECT type.
- Multiple PROJECTS may be completed under one contract; each PROJECT requires a separate APPLICATION PACKET.
- A PROJECT can only have one location. One PROJECT serving several parks is not permitted.
- GRANTEES are encouraged to partner with other GRANTEES on PROJECTS (PRC §80063(b)). See page 54 for information on allocation transfers.

Match

PROJECTS not serving a “severely disadvantaged community” (median household income less than 60% of the statewide average) require a 20% match (see page 13) (PRC §80061(c)).

No Supplanting

GRANTEES must use Per Capita grant funds to supplement existing expenditures, rather than replace them (PRC §80062(d)). For example, a GRANTEE has a budget for recreational capital expenditures of \$500,000 per year, and is receiving a \$200,000 allocation under the Per Capita program. The budget cannot be reduced to \$300,000, with the Per Capita funds making up the difference.

Similarly, if a PROJECT has been approved by the governing body, and a funding source has been identified, *Per Capita funds cannot be swapped in as a new funding source unless the prior funding source is applied to other identified recreational capital projects.*

GRANTEES should keep all documents indicating intent to use Per Capita grant funds for PROJECTS.

Grant Process Overview

The GRANT PERFORMANCE PERIOD is shown on the contract. Visit OGALS' [Per Capita webpage](http://www.parks.ca.gov/percapita) at www.parks.ca.gov/percapita for deadlines and current information on each step in the process listed below.

1. **OGALS Mandatory Grant Administration Workshops** will be held statewide. All recipients are required to attend.
2. **Resolution:** GRANTEE passes one resolution approving the filing of *all* applications associated with the contract, and provides a copy to OGALS.
3. **APPLICATION PACKET(s):** The GRANTEE defines the PROJECT SCOPE(s) and amount of GRANT funds needed for each PROJECT. As PROJECTS are identified, the GRANTEE submits individual APPLICATION PACKET(s) to OGALS. OGALS reviews each APPLICATION PACKET and sends a letter of approval to the GRANTEE or requests additional information.
4. **Contract:** OGALS sends a contract to the GRANTEE once the OGALS has received and approved APPLICATION PACKET(s) equaling the total contract amount.
 - a. The contract section, beginning on page 42, includes a sample contract.
 - b. The GRANTEE must return the contract signed by the AUTHORIZED REPRESENTATIVE to OGALS.
 - c. OGALS returns a copy of the fully executed contract to the GRANTEE.
5. **Payments and end of GRANT PERFORMANCE PERIOD:** GRANTEE requests payments for eligible costs. The grant payments section, beginning on page 33, provides payment request instructions and forms.
 - a. The GRANTEE may request payments after each PROJECT is approved by OGALS.
 - b. The GRANTEE completes PROJECT SCOPE(s).
 - c. The GRANTEE sends PROJECT COMPLETION PACKET(s) to OGALS.
 - d. OGALS processes the final payment request after each PROJECT is complete as documented by the GRANTEE in the PROJECT COMPLETION PACKET, and as verified by OGALS by conducting a site inspection.
6. **Accounting and Audit:** DPR's Audits Office may conduct an audit. The GRANTEE is required to retain all PROJECT records, including source documentation with original signatures, for five years following issuance of the final GRANT payment or PROJECT termination, whichever is later. The Accounting and Audit Section, beginning on page 48, provides directions and an Audit Checklist for DPR audit and accounting requirements.

Authorizing Resolution

GRANTEE passes *one* resolution approving the filing of *all* APPLICATION PACKETS associated with the contract, and forwards a copy to OGALS.

The Authorizing Resolution on the following page may be reformatted; however, the *language provided in the resolution must remain unchanged*.

The Authorizing Resolution serves two purposes:

1. It is the means by which the GRANTEE'S Governing Body agrees to the terms of the contract; it provides confirmation that the GRANTEE has the funding to complete, operate and maintain PROJECTS associated with the contract.
2. Designates a position title to represent the Governing Body on all matters regarding PROJECTS associated with the contract. The incumbent in this position is referred to as the AUTHORIZED REPRESENTATIVE.

Resolution items 4, 5, 7, 8 and 9 are required by Proposition 68.

Complete the highlighted areas of the Authorizing Resolution (beginning on following page). The AUTHORIZED REPRESENTATIVE can delegate signatory authority to other individuals (by position title) either in entirety or for particular documents. This may be included in item 11 of the resolution, or the AUTHORIZED REPRESENTATIVE may submit a letter (on letterhead) or email to OGALS delegating authority.

Resolution Form

Resolution Number: (insert number here)

RESOLUTION OF THE (Title of Governing Body/City Council, Board of Supervisors)
OF (City, County, or District) APPROVING APPLICATION(S) FOR PER CAPITA
GRANT FUNDS

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Per Capita Grant Program, setting up necessary procedures governing application(s); and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the grantee's Governing Body to certify by resolution the approval of project application(s) before submission of said applications to the State; and

WHEREAS, the grantee will enter into a contract(s) with the State of California to complete project(s);

NOW, THEREFORE, BE IT RESOLVED that the (grantee's governing body) hereby:

1. Approves the filing of project application(s) for Per Capita program grant project(s); and
2. Certifies that said grantee has or will have available, prior to commencement of project work utilizing Per Capita funding, sufficient funds to complete the project(s); and
3. Certifies that the grantee has or will have sufficient funds to operate and maintain the project(s), and
4. Certifies that all projects proposed will be consistent with the park and recreation element of the [city/county/district's] general or recreation plan (PRC §80063(a)), and
5. Certifies that these funds will be used to supplement, not supplant, local revenues in existence as of June 5, 2018 (PRC §80062(d)), and
6. Certifies that it will comply with the provisions of §1771.5 of the State Labor Code, and
7. (PRC §80001(b)(8)(A-G)) To the extent practicable, as identified in the "Presidential Memorandum--Promoting Diversity and Inclusion in Our National Parks, National Forests, and Other Public Lands and Waters," dated January 12, 2017, the [city/county/district] will consider a range of actions that include, but are not limited to, the following:
 - (A) Conducting active outreach to diverse populations, particularly minority, low-income, and disabled populations and tribal communities, to increase awareness within those communities and the public generally about specific programs and opportunities.
 - (B) Mentoring new environmental, outdoor recreation, and conservation leaders to increase diverse representation across these areas.
 - (C) Creating new partnerships with state, local, tribal, private, and nonprofit organizations to expand access for diverse populations.

(D) Identifying and implementing improvements to existing programs to increase visitation and access by diverse populations, particularly minority, low-income, and disabled populations and tribal communities.

(E) Expanding the use of multilingual and culturally appropriate materials in public communications and educational strategies, including through social media strategies, as appropriate, that target diverse populations.

(F) Developing or expanding coordinated efforts to promote youth engagement and empowerment, including fostering new partnerships with diversity-serving and youth-serving organizations, urban areas, and programs.

(G) Identifying possible staff liaisons to diverse populations.

8. Agrees that to the extent practicable, the project(s) will provide workforce education and training, contractor and job opportunities for disadvantaged communities (PRC §80001(b)(5)).
9. Certifies that the grantee shall not reduce the amount of funding otherwise available to be spent on parks or other projects eligible for funds under this division in its jurisdiction. A one-time allocation of other funding that has been expended for parks or other projects, but which is not available on an ongoing basis, shall not be considered when calculating a recipient's annual expenditures. (PRC §80062(d)).
10. Certifies that the grantee has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and
11. Delegates the authority to the (designated position, not name of person occupying position), or designee to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope(s); and
12. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

Approved and adopted the _____ day of _____, 20_____.

I, the undersigned, hereby certify that the foregoing Resolution Number _____ was duly adopted by the (grantee's governing body) following a roll call vote:

Ayes: _____
Noes: _____
Absent: _____

(Clerk)

Application Packet

- GRANTEE may submit multiple APPLICATION PACKETS.
- Separate APPLICATION PACKETS are required for each PROJECT site and/or PROJECT type.
- Provide all APPLICATION PACKET items in the order shown in the following checklist.
- Submitted documents need not contain original signatures; but the GRANTEE must keep all original signed documents.
- GRANTEES are encouraged to submit documents digitally, as .pdf files. Do not send the APPLICATION PACKET as one file. E-mail each checklist item to the PROJECT OFFICER as a separate digital file, labeled using the digital file names indicated on the application checklist.
- If submitting hard copies, number all pages of the APPLICATION PACKET.

Any costs incurred prior to finalizing the contract are at the GRANTEE'S own risk.



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Application Packet Checklist

GRANTEES must complete the checklist below and submit it with the APPLICATION PACKET.
An APPLICATION PACKET is not complete unless all items on the checklist are submitted.
Each PROJECT requires its own APPLICATION PACKET.

Check if included	Check if not applicable	Application Item	Procedural Guide Page #	Check when signed by AUTHORIZED REPRESENTATIVE	Application Packet Page #
<input type="checkbox"/>		Application Packet Checklist Digital file name: checklist.pdf	Pg. 11		Pg. _____
<input type="checkbox"/>		Application Digital file name: application.pdf	Pg. 12	<input type="checkbox"/>	Pg. _____
<input type="checkbox"/>	<input type="checkbox"/>	Development Project Scope/Cost Estimate, or Digital file name: devscope.pdf	Pg. 19	<input type="checkbox"/>	Pg. _____
<input type="checkbox"/>	<input type="checkbox"/>	Acquisition Requirements Digital file names: acqscope.pdf & acqdocs.pdf	Pg. 14	<input type="checkbox"/>	Pg. _____
<input type="checkbox"/>		Funding Sources Form Digital file name: fundingsources.pdf	Pg. 20	<input type="checkbox"/>	Pg. _____
<input type="checkbox"/>		Per Capita Match Calculator Digital file name: match.pdf	Pg. 13	<input type="checkbox"/>	Pg. _____
<input type="checkbox"/>	<input type="checkbox"/>	CEQA Compliance Certification Digital file name: ceqa.pdf	Pg. 21	<input type="checkbox"/>	Pg. _____
<input type="checkbox"/>	<input type="checkbox"/>	Land Tenure documentation Digital file names: ownership.pdf or nonownership.pdf	Pg. 21		Pg. _____
<input type="checkbox"/>	<input type="checkbox"/>	Sub-Leases or Agreements Digital file name: otheragreements.pdf	Pg. 24		Pg. _____
<input type="checkbox"/>	<input type="checkbox"/>	Site Plan Digital file name: siteplan.pdf	Pg. 24		Pg. _____
	<input type="checkbox"/>	GHG Emissions Reduction Worksheet (at completion) Digital file name: emissions.pdf	Pg. 24		Pg. _____
<input type="checkbox"/>		Photos Digital file name: photos.pdf	Pg. 24		Pg. _____



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Per Capita Project Application Form

PROJECT NAME	REQUESTED GRANT AMOUNT \$	
PROJECT SITE NAME and PHYSICAL ADDRESS where PROJECT is located including zip code (substitute latitude and longitude where no street address is available)	MATCH AMOUNT (if project is not serving a severely disadvantaged community) \$	
	LAND TENURE (<input checked="" type="checkbox"/> all that apply) <input type="checkbox"/> Owned in fee simple by GRANTEE <input type="checkbox"/> Available (or will be available) under a () year lease or easement	
NEAREST CROSS STREET		
Project Type (Check one) Acquisition <input type="checkbox"/> Development <input type="checkbox"/>		
COUNTY OF PROJECT LOCATION		
GRANTEE NAME AND MAILING ADDRESS		
AUTHORIZED REPRESENTATIVE AS SHOWN IN RESOLUTION		
Name (typed or printed) and Title	Email address	Phone
GRANT CONTACT-For administration of grant (if different from AUTHORIZED REPRESENTATIVE)		
Name (typed or printed) and Title	Email address	Phone
GRANT SCOPE: I represent and warrant that this APPLICATION PACKET describes the intended use of the requested GRANT to complete the items listed in the attached Development PROJECT Scope/Cost Estimate Form or acquisition documentation. I declare under penalty of perjury, under the laws of the State of California, that the information contained in this APPLICATION PACKET, including required attachments, is accurate.		
Signature of AUTHORIZED REPRESENTATIVE as shown in Resolution		Date
Print Name:		
Title:		

Per Capita Match

PROJECTS that do not serve severely disadvantaged communities (median household income less than 60% of the statewide average) must include 20% match from the GRANTEE (PRC §80061(c)).

Costs incurred to provide match must be eligible costs. Calculate match using the [Per Capita match calculator](https://www.parksforcalifornia.org/percapita) at <https://www.parksforcalifornia.org/percapita>; submit the report with the APPLICATION PACKET.

Costs incurred to provide match must be eligible costs. State funds are not allowed for match. Eligible match sources are:

- Federal funds
- Local funds
- Private funds
- IN-HOUSE EMPLOYEE SERVICES
- Volunteer labor – must maintain time and attendance records showing actual hours worked (see <https://independentsector.org> for [volunteer hourly wage value](#))

Match and Eligible Costs

The match is 20% but grantee must show 25% in additional costs if match is required. For example:

Determining the match amount:

PROJECT amount:	\$125,000
20% match:	(\$25,000)
GRANT amount:	\$100,000

Submitting costs for reimbursement

GRANT amount:	\$100,000
25% in additional costs:	\$25,000
PROJECT amount:	\$125,000

In summary, the 20% match calculation is based on the PROJECT amount, not on the GRANT amount.

Acquisition Projects

Acquisition Rules

1. Purchase price cannot exceed the appraised value, even if the GRANTEE is willing to pay the difference.
2. Land cannot be acquired through eminent domain.
3. Associated acquisition costs, such as appraisals, escrow fees, title insurance, etc., combined must be less than 25% of the PROJECT costs.
4. A deed restriction must be recorded on the property after the acquisition is complete (see page 29).
5. Land must be open to the public for recreational purposes within three years from the date the final payment is issued by the State Controller's Office (SCO).²
6. GRANTEE must provide Title Insurance.
7. PROJECTS must be consistent with the park and recreation element of the [city/county/district's] general or recreation plan (PRC §80063(b)).
8. Per Capita funds must be used to supplement, not supplant, local revenues in existence as of June 5, 2018 (PRC §80062(d)).

Acquisition Grant Scope/Cost Estimate

Provide the following information on a document signed by the AUTHORIZED REPRESENTATIVE:

- A brief description, for example, "Acquisition of approximately (enter total acreage to be acquired) for the development of park by (enter date no later than three years from the date final payment is issued by the SCO)."
- Estimated total costs for land and relocation
- Estimated total costs other than the purchase price and relocation costs, such as appraisals, escrow fees, title insurance fees, deed restriction recordation costs

Acquisition Documentation

For each parcel to be acquired, submit these documents:

1. An appraisal conducted within the last twelve months
2. A separate letter from an independent third party, AG rated appraiser certified by the California Office of Real Estate Appraisers stating the appraisal was reviewed, and was completed using acceptable methods
3. County Assessor's parcel map, showing parcel number and parcel to be acquired
4. Estimated value of each parcel to be acquired with a description of how that value was determined (such as the listed price on MLS, in-house estimation, website evaluation, assessed value)
5. Acreage of each parcel to be acquired
6. A description of any encumbrances that will remain on the property, such as grazing, timber, mineral rights or easements

² Grantees will see this date on their project complete letter – "A final payment was issued by the SCO on xx/xx/20xx"

7. A brief description of the intended recreational use of the land with the estimated date by which the site will be open to the public for recreational purposes

For easement acquisitions, in addition to the requirements above, provide:

8. A copy of the proposed easement guaranteeing the authority to use the property for the purposes specified in the application.

For relocation costs, in addition to the requirements above, provide:

9. A letter signed by the AUTHORIZED REPRESENTATIVE, listing the relocation costs for each displaced tenant, certifying that the relocation amount does not exceed the maximum allowed pursuant to Government Code §7260-7277.

Eligible Acquisition Costs

- IN-HOUSE EMPLOYEE SERVICES – see accounting rules (page 48)
- GRANT/PROJECT administration and accounting
- Public meetings/focus groups/design workshop
- Appraisals, escrow fees, surveying, other costs associated with acquisition
- Cost of land

Ineligible Acquisition Costs – Cannot be charged to the grant

- Costs to fulfill any mitigation requirements imposed by law (PRC §80020)
- Acquisitions where purchase price is greater than appraised value
- Costs for land acquired through eminent domain or condemnation
- Costs incurred outside the GRANT performance period
- Development costs

Development Projects

Development Project Rules

1. PROJECTS must be consistent with the park and recreation element of the GRANTEE'S general or recreation plan (PRC §80063(b)).
2. Per Capita funds must be used to supplement, not supplant, local revenues in existence as of June 5, 2018 (PRC §80062(d)).
3. Contracted work must comply with the provisions of §1771.5 of the State Labor Code.
4. GRANTEE must have adequate liability insurance, performance bond, or other security necessary to protect the State and GRANTEE'S interest against poor workmanship, fraud, or other potential loss associated with the completion of the PROJECT.
5. PRE-CONSTRUCTION COSTS may not exceed 25% of the PROJECT amount.
6. The primary purpose of any building constructed or improved must be public recreation. For example, renovating a gymnasium that includes office space for staff is eligible; renovating GRANTEE'S office building is not.
7. PROJECTS must be accessible, including an accessible path of travel to the PROJECT.

Eligible Development Costs

All costs must be incurred within the GRANT PERFORMANCE PERIOD. Costs listed below are examples of eligible costs, and not inclusive. Contact OGALS if you have any questions regarding a PROJECT cost.

Eligible Pre-construction Costs – up to 25% of PROJECT costs; incurred prior to groundbreaking as determined by the GRANTEE

- Public meetings, focus groups, design workshops
- Plans, specifications, construction documents, and cost estimates
- Permits
- CEQA
- Bid preparation and packages
- IN-HOUSE EMPLOYEE SERVICES prior to groundbreaking
- GRANT/PROJECT administration and accounting prior to groundbreaking

Eligible Construction Costs – up to 100% of the PROJECT costs; incurred after groundbreaking.

- Construction – necessary labor and construction activities to complete the PROJECT, including site preparation (demolition, clearing and grubbing, excavation, grading), onsite implementation and construction supervision
- Equipment – Equipment use charges (rental and in-house) must be made in accordance with GRANTEE'S normal accounting practices.
- Bond and other signs
- Premiums on hazard and liability insurance to cover personnel or property
- Site preparation
- Purchase and installation of equipment: security cameras, lighting, signs, display boards, sound systems, video equipment, etc.
- Construction management: including site inspections and PROJECT administration

- Miscellaneous: other costs incurred during the construction phase, such as transporting materials, equipment, or personnel, and communications
- IN-HOUSE EMPLOYEE SERVICES after groundbreaking
- GRANT/PROJECT administration and accounting after groundbreaking

Ineligible Development Costs – Cannot be charged to the grant

- PRE-CONSTRUCTION COSTS that exceed 25% of the PROJECT costs
- Development to fulfill any mitigation requirements imposed by law (PRC §80020)
- All non-capital costs, including interpretive and recreational programming, software and software development
- Construction or improvements to facilities that are not primarily designated for recreational purposes, such as park district offices
- Construction outside the boundaries of the recreation facility
- Furniture or equipment not site specific *and* not necessary for the core function of a new facility (non-capital outlay)
- Costs incurred before or after the GRANT PERFORMANCE PERIOD
- Indirect costs – overhead business expenses of the GRANTEE'S fixed or ordinary operating costs (rent, mortgage payments, property taxes, utilities, etc.)
- Food and beverages
- Out-of-state travel
- Fundraising and grant writing
- Repairs – activities performed to a section of a structure that are intended to allow the continued use.
- Maintenance – activities intended to be performed on a regular basis to maintain the expected useful life of a structure.

Distinguishing capital outlay (eligible) from maintenance and repair (not eligible):

- Capital outlay – building something new, or for existing structures, activities intended to boost the condition beyond its original or current state.
- Repairs – activities performed to a section of a structure that are intended to allow the continued use.
- Maintenance – activities intended to be performed on a regular basis to maintain the expected useful life of a structure.

Examples:

Roof – replacing broken shingles is maintenance; fixing a hole is repair; replacing the roof is capital outlay.

Playground – adding additional fall material is maintenance; fixing the chains on a swing set is repair; replacing the play structures is capital outlay.

Windows – repairing the glazing is maintenance; replacing broken panes is repair; replacing the windows is capital outlay.

Accounting Rules for In-House Employee Services

GRANTEES must follow these accounting practices for services performed by its employees to be eligible for reimbursement:

- Maintain time and attendance records as charges are incurred, identifying the employee through a name or other tracking system, and that employee's actual time spent on the PROJECT.
- Time estimates, including percentages, for work performed on the PROJECT are not acceptable.
- Time sheets that do not identify the specific employee's time spent on the PROJECT are not acceptable.
- Costs of the salaries and wages must be calculated according to the GRANTEE'S wage and salary scales, and may include benefit costs such as vacation, health insurance, pension contributions and workers' compensation.
- Overtime costs may be allowed under the GRANTEE'S established policy, provided that the regular work time was devoted to the same PROJECT.
- May not include overhead or cost allocation. These are the costs generally associated with supporting an employee, such as rent, personnel support, IT, utilities, etc.
- If planning to claim IN-HOUSE EMPLOYEE SERVICES costs, provide a sample timesheet for OGALS review to confirm these accounting practices are being followed.



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Development Project Scope/Cost Estimate Form

GRANTEE:	PROJECT Name
----------	--------------

Development project scope (Describe the project in 30 words or less):

Project Scope Items - ☐ all that apply:

Install new	Renovate existing	Replace existing	Recreation Element
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pool, aquatic center, splash pad
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trails or walking paths
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Landscaping or irrigation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Group picnic, outdoor classrooms, other gathering spaces
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Play equipment, outdoor fitness equipment
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sports fields, sports courts, court lighting
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Community center, gym, other indoor facilities
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Restroom, concession stand
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Minor elements which support one or more of the recreation elements checked above: benches, lighting, parking, signage, etc.

PRE-CONSTRUCTION (costs incurred prior to ground-breaking, such as design, permits, bid packages, CEQA); up to 25% of total PROJECT cost.	\$
Construction	\$
Total PROJECT cost	\$
Subtract GRANTEE match if not in severely disadvantaged community (20% of total PROJECT cost, see page 13)	Less match -\$
Total GRANT amount requested	\$

The GRANTEE understands that all elements listed on this form must be complete and open to the public before the final grant payment will be made.

AUTHORIZED REPRESENTATIVE Signature

Date

Print Name and Title



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Funding Sources Form

GRANTEE:	PROJECT Name
----------	--------------

PROJECTS funded by the program are not complete until the PROJECT SCOPE is complete, and the PROJECT is open to the public. PROJECTS will:

- Be entirely funded by the GRANT, *or*
- Require funds in excess of the GRANT.

If the PROJECT requires funds in excess of the GRANT, the SCOPE of the PROJECT may be either the SCOPE of the larger project, or a subset of the larger project.

For example, if the PROJECT is \$100,000 towards construction of a \$500,000 park, the SCOPE can be the \$500,000 park, or a \$100,000 element of the park, such as a playground, that can be complete and open to the public.

- ☐ The PROJECT will be entirely funded by the GRANT, *or*
- ☐ The PROJECT requires funds in excess of the GRANT:
- ☐ The SCOPE is the same as the scope of the larger project, *or*
 - ☐ The SCOPE is a subset of a larger project, the scope of that larger project is:

Larger project cost: \$

Anticipated completion date:

List all funds that will be used. Submit revised Funding Sources form should funding sources be added or modified.

Funding Source	Date Committed	Amount
Per Capita/State of California	July 1, 2018	\$
		\$
		\$

I represent and warrant that I have full authority to execute this Funding Sources Form on behalf of the GRANTEE. I declare under penalty of perjury, under the laws of the State of California, that this status report, and any accompanying documents, for the above-mentioned GRANT is true and correct to the best of my knowledge.

AUTHORIZED REPRESENTATIVE Signature

Date

Print Name and Title



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CEQA Compliance Certification

GRANTEE:

Project Name:

Project Address:

Is CEQA complete? ☐Yes ☐No Is completing CEQA a PROJECT SCOPE item? ☐Yes ☐No

What document was filed, or is expected to be filed for this project's CEQA analysis:

Date complete/expected to be completed

- ☐ Notice of Exemption (attach recorded copy if filed)
☐ Notice of Determination (attach recorded copy if filed)
☐ Other:

If CEQA is complete, and a Notice of Exemption or Notice of Determination was not filed, attach a letter from the Lead Agency explaining why, certifying the project has complied with CEQA and noting the date that the project was approved by the Lead Agency.

Lead Agency Contact Information	
Agency Name:	
Contact Person:	
Mailing Address:	
Phone: ()	Email:

Certification:

I hereby certify that the above referenced Lead Agency has complied or will comply with the California Environmental Quality Act (CEQA) and that the project is described in adequate and sufficient detail to allow the project's construction or acquisition.

I further certify that the CEQA analysis for this project encompasses all aspects of the work to be completed with grant funds.

AUTHORIZED REPRESENTATIVE Signature

Date

Print Name and Title

FOR OGALS USE ONLY

CEQA Document	Date Received	PO Initials
<input type="checkbox"/> NOE <input type="checkbox"/> NOD		

Land Tenure

The purpose of the land tenure requirement is to verify that the GRANTEE has sufficient legal rights to the property to fulfill the terms of the contract.

- PROJECT amounts up to \$100,000 require at least 20 years of land tenure at the site to be acquired or developed.
- PROJECT amounts greater than \$100,000 require at least 30 years of land tenure at the site to be acquired or developed.
- The 20- or 30-year land tenure requirement begins on July 1, 2018.
- The GRANTEE remains responsible for fulfillment of the terms of the contract, even if the GRANTEE's land tenure agreement changes within the contract PERFORMANCE PERIOD.

Land Tenure Ownership Documentation

If the GRANTEE owns the PROJECT site in fee simple, provide one of the following:

- Deed or deed recordation number, or
- Title report, or
- Tract map or assessor's map with owner's name

Land Tenure Non-Ownership Documentation

If the GRANTEE does not own the PROJECT site in fee simple, provide:

- Land Tenure Agreement Checklist (page 22)
- Signed land tenure agreement

If the grantee does not own the project site in fee simple, and the existing land tenure agreement does not meet the requirements in the Land Tenure Checklist, provide

- Land Tenure Agreement Checklist (page 22)
- Signed land tenure agreement
- An explanation as to how the existing land tenure agreement adequately protects the State's interest. OGALS will review and determine if the land tenure is sufficient.

Land Tenure Agreement Checklist

If the GRANTEE does not own the land in fee simple, complete this checklist. Attach a copy of the signed land tenure agreement. Identify the page numbers where the required items can be found in the land tenure agreement and highlight the provisions in the agreement where the information is located. *All items are required.*

Land Tenure Checklist

GRANTEE:		PROJECT Name
<input checked="" type="checkbox"/>	Page	Required Item
<input type="checkbox"/>		Type of agreement: For example: lease, joint powers agreement, easement, memorandum of understanding, etc. <hr style="border: 0; border-top: 1px solid black; margin-top: 5px;"/>
<input type="checkbox"/>		Parties to the agreement (land owner must be public agency or utility) and date signed: <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> Party <hr style="border: 0; border-top: 1px solid black; margin-top: 5px;"/> <hr style="border: 0; border-top: 1px solid black; margin-top: 5px;"/> <hr style="border: 0; border-top: 1px solid black; margin-top: 5px;"/> </div> <div style="width: 35%;"> Date Signed <hr style="border: 0; border-top: 1px solid black; margin-top: 5px;"/> <hr style="border: 0; border-top: 1px solid black; margin-top: 5px;"/> <hr style="border: 0; border-top: 1px solid black; margin-top: 5px;"/> </div> </div>
<input type="checkbox"/>		Term of the agreement: _____ years
<input type="checkbox"/>		Agreement end date: _____ <ul style="list-style-type: none"> Grant amounts up to \$100,000 require at least 20 years of land tenure. Grant amounts above \$100,000 require at least 30 years of land tenure. The land tenure requirement begins on July 1, 2018.
<input type="checkbox"/>		Renewal option: Must include an option, which can be non-binding, for the GRANTEE to renew the agreement beyond the original 20 or 30 year term.
<input type="checkbox"/>		Termination clause: Any of the following is acceptable: <ul style="list-style-type: none"> No termination clause – the agreement is non-revocable. Termination clause specifies the agreement is revocable only for cause. The termination clause cannot allow the land owner to revoke the agreement without cause, i.e., at will.
<input type="checkbox"/>		Site Control, Roles and Responsibilities should the GRANT be awarded, the agreement: <ul style="list-style-type: none"> Authorizes the GRANTEE to <i>proceed with the construction</i> PROJECT. The GRANTEE may delegate construction to other entities. Establishes <i>when the general public can use</i> the PROJECT and gives GRANTEE <i>permission to operate</i> the PROJECT site (such as scheduling recreational programs). The GRANTEE may delegate operational roles to other entities but is bound through the contract provisions to ensure full public access for the duration of the land tenure period. Identifies which entity will <i>maintain</i> the PROJECT site. The GRANTEE may delegate maintenance to other entities but is bound through the contract provisions to ensure maintenance of the PROJECT site for the duration of the land tenure period.

Site Plan

Provide a drawing showing where all the items listed in the project scope/Cost Estimate Form will be located. To ensure that any building use meets the requirements of the program, include the function and approximate square footage of each room within buildings that are part of the scope, and the approximate total square footage of the buildings. It does not need to be a detailed engineering rendering.

Sub-leases or Agreements

Provide a list of all *other* leases, agreements, memoranda of understanding, etc., affecting PROJECT property or its operation and maintenance.

Photos

Provide photos that will establish a “before” comparison for the site to be improved.

Greenhouse Gas Emissions Reduction and Carbon Sequestration.³

If your PROJECT involves tree planting, follow the instructions below and submit with the PROJECT COMPLETION PACKET.

Before getting started, gather the following PROJECT information:

- Tree species
- Size of trees at planting
- Information on the distance and direction to the nearest building (if applicable)
- Information on the age and climate control of any nearby buildings (if applicable)
- Information about the tree’s growing conditions

Getting started:

1. Navigate to the [i-Tree site](https://planting.itreetools.org) at <https://planting.itreetools.org> and select the tab for a new project.
2. On the Location map, select your state, county and city, and then click Next.
3. Configure the project parameters⁴:
 - “Electricity emissions factor” enter 285 and select kilograms
 - “Fuel emissions factor” enter 53.1 and select kilograms
 - “Years for the project” is the age of the trees 40 years from when they are planted. So, if the trees will be four years old at the time of planting, enter 44.
 - “Tree mortality” enter 0
4. Tree Planting Configurations
 - Enter the tree groups for the project; create a new group for each new species or for each new location.
 - Species – select the species; add multiple species by creating new groups.

³ PRC §80001(b)(7)

⁴ Project parameters are from the California Air Resources Board’s “Quantification Methodology for the California Natural Resources Agency Urban Greening Grant Program.”

- DBH – tree diameter four feet above the ground at time of planting.
- Distance to nearest tree – select from drop down menu
- Tree is (north, south, east or west) of Building – select the direction the tree is located to the nearest climate-controlled building.
- Climate controls – select the type of climate controls the nearby building has installed. If a tree is more than 60 feet away from a climate-controlled building, select “none.”
- Condition – select the overall health of the trees at the time of planting.
- Exposure to sunlight – select the amount of sun that reaches the tree, based on its surroundings.
- Number of trees – enter the number of trees that are the same species and the same characteristics (e.g. distance to building, location in respect to building, exposure to sunlight, etc.) If some of these characteristics change, multiple lines of the same species should be input into the tool.

Once all the groups are entered, click **next**

5. Print the report in landscape mode, and submit it to OGALS.

Special Requirements

- Status Reports (page 26)
- Bond Act Sign (page 28)
- Deed Restriction (page 29)

Status Report

OGALS will send a Status Report every six months until receipt of a PROJECT COMPLETION PACKET. Payment requests will not be processed if Status Reports are overdue. See sample on following page.

Sample Status Report – Due xx/xx/20xx (30 days from mail date)

Grantee:

Project Number:

Project Name:

Project Scope:

Project Phase: ☐ Pre-Construction/Pre-Acquisition ☐ Acquisition and/or Construction

When will you submit your next payment request?

For how much?

Estimated date of project completion:

Potential obstacles affecting completion:

Is the project: On Time? yes/no Within Budget? yes/no Within Scope? yes/no If no, explain:

Describe grant-funded work completed since last status report submitted on (DATE):

Are CCC or certified local corps working on this project? Yes/No

Provide photos showing work completed since (DATE)

Describe grant-funded work expected to be completed by (MailDate + 6 mos)

If there have been any changes to the proposed funding for this project, attach a revised Funding Sources Form.

Provide information on payments to be submitted over the next three years:

Between 7/1/20 and 6/30/21	Between 7/1/21 and 12/31/21	Between 1/1/22 and 6/30/22	Between 7/1/22 and 12/30/22	Between 1/1/23 and 6/30/23	Between 7/1/23 and 12/30/23	After 1/1/24
\$	\$	\$	\$	\$	\$	\$

The purpose of this data is to help the State estimate borrowing needs; you will not be held to these estimates.

I represent and warrant that I have full authority to execute this Grant Progress Status Report on behalf of the Grantee. I declare under penalty of perjury, under the laws of the State of California, that this status report, and any accompanying documents, for the above-mentioned Grant is true and correct to the best of my knowledge.

AUTHORIZED REPRESENTATIVE Signature

Date

Print Name and Title

(*Certification to above information requires a signature by a person authorized in the resolution)

Bond Act Sign

A sign acknowledging the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018 as the funding source for the project must be installed during construction and at completion (PRC §80001(b)(3)). If appropriate, the same sign can be used during construction and completion.

Sign requirements

The sign must be available during construction, at the final inspection of the PROJECT, and remain in place for a minimum of four (4) years from date of PROJECT completion. There is no minimum or maximum size other than the minimum size for the logo, as long as the sign contains the required wording.

Sign Language

All signs must contain the following language:

GAVIN NEWSOM, GOVERNOR

Wade Crowfoot, Secretary for Natural Resources

Armando Quintero, Director, California Department of Parks and Recreation

Use the names of the current officials. The name of the director of the local agency or other governing body may be added. The sign may also include names (and/or logos) of other partners, organizations, individuals and elected representatives.

Logo

All signs must display the Parks and Water Bond Act logo (shown on the cover of this guide). Display the logo to maximize visibility and durability. [Download the logo](http://resources.ca.gov/grants/logo-art/) at <http://resources.ca.gov/grants/logo-art/>. Each edge of the logo must be a minimum of 24" x 24". Exceptions may be approved, when appropriate, at OGALS' discretion.

Sign Construction

All materials used shall be durable and resistant to the elements and graffiti.

Sign Cost

The cost of the sign(s) is an eligible PROJECT cost. Permanent signage is encouraged.

Appropriateness of Signs

For projects where the required sign may be out of place or affected by local sign ordinances, OGALS may authorize a sign that is more appropriate to the project.

State Approval

GRANTEE shall submit the proposed number, locations, size, and language of signs for preliminary review. Final payments will not be processed until post completion signage has been approved and installed.

Deed Restriction

The Deed Restriction restricts the title to the property, safeguarding the property for purposes consistent with the GRANT for the duration of the CONTRACT PERFORMANCE PERIOD.

If the GRANTEE owns the PROJECT land, a Deed Restriction must be recorded on the title to the property before OGALS will approve any grant payments. If the GRANTEE is acquiring land, a deed restriction is required before the PROJECT is complete.

A Deed Restriction *is not required* if the GRANTEE does not own the PROJECT land, such as where the GRANTEE is improving property it has access to under a lease agreement.

Deed Restriction Instructions

1. The GRANTEE must own the PROJECT land and have an encumbered contract for the GRANT amount.
2. The PROJECT OFFICER will send the Deed Restriction to the GRANTEE. *Do not alter the Deed Restriction.* The GRANTEE takes the following steps:
 1. Add ownership information to **Paragraph I of the Deed Restriction:** [formal name of GRANTEE] *Insert ownership information as it appears on the deed.*
 2. *Create 3 copies (GRANTEE copy, OGALS copy and recorder's copy) of the Deed restriction and the required attachments:*
 - (1) Exhibit A: Label this attachment "Exhibit A (Legal Description of Property)." Include a formal legal description of every parcel of property to which grant funds will be used for the development and/or acquisition thereof. This information can be obtained from the grant deed or title policy. (The assessor's parcel number or a street address is NOT a valid legal description.) and,
 - (2) Exhibit B: Label this attachment "Exhibit B (Grant Contract)" and include a complete copy of the Grant Contract and provisions signed by the AUTHORIZED REPRESENTATIVE and the State of California.
3. *Notarize it:* Take the following documents to a notary. OGALS recommends submitting these documents to the OGALS PROJECT OFFICER for review prior to notarizing.
 - Unsigned and undated Deed Restriction
 - Exhibit A (Legal Description of Property)
 - Exhibit B (Grant Contract)The AUTHORIZED REPRESENTATIVE dates and signs the Deed Restriction signature page in the presence of a notary. The notary will complete a Notary Acknowledgement (Civil Code §1189).
4. *Record it:* Take the notarized documents bulleted above to the County Recorder's Office of the county in which the property is located. Ask the County Clerk to record the Deed Restriction with Notary Acknowledgement, Exhibit A, and Exhibit B, on the title to the property.
5. *Send it:* Send a copy of the notarized and recorded documents bulleted above to the OGALS PROJECT OFFICER.

RECORDING REQUESTED BY:
California Department of Parks and Recreation
Office of Grants and Local Services

WHEN RECORDED MAIL TO:
Office of Grants and Local Services
PO Box 942896
Sacramento, CA 94296-0001
Attn: [Project Officer]

DEED RESTRICTION

I. WHEREAS, insert ownership information as it appears on the deed (hereinafter referred to as “Owner(s)” is/are recorded owner(s) of the real property described in Exhibit A, attached and incorporated herein by reference (hereinafter referred to as the “Property”); and

II. WHEREAS, the California Department of Parks and Recreation (hereinafter referred to as “DPR”) is a public agency created and existing under the authority of section 5001 of the California Public Resources Code (hereinafter referred to as the “PRC”). And

III. WHEREAS, Owner(s) (or Grantee) received an allocation of grant funds pursuant to the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 Per Capita Program for improvements on the Property; and

IV. WHEREAS, on (enter date), DPR’s Office of Grants and Local Services conditionally approved Grant [project number], (hereinafter referred to as “Grant”) for improvements on the Property, subject to, among other conditions, recordation of this Deed Restriction on the Property; and

V. WHEREAS, but for the imposition of the Deed Restriction condition of the Grant, the Grant would not be consistent with the public purposes of the Per Capita Program and the funds that are the subject of the Grant could therefore not have been allocated; and

VI. WHEREAS, Owner(s) has/have elected to comply with the Deed Restriction requirement of the Grant, so as to enable Owner(s), to receive the Grant funds and perform the work described in the Grant;

NOW, THEREFORE, in consideration of the issuance of the Grant funds by DPR, the undersigned Owner(s) for himself/herself/themselves and for his/her/their heirs, assigns, and successors-in-interest, hereby irrevocably covenant(s) with DPR that the condition of the grant (set forth at paragraph(s) 1 through 5 and in Exhibit B hereto) shall at all times on and after the date on which this Deed Restriction is recorded constitute for all purposes covenants, conditions and restrictions on the use and enjoyment of the Property that are hereby attached to the deed to the Property as fully effective components thereof.

1. DURATION. This Deed Restriction shall remain in full force and effect and shall bind Owner(s) and all his/her/their assigns or successors-in-interest for the period running from July 1, 20xx to June 30, 20xx (20 years) or June 30, 20xx (30 years).

2. TAXES AND ASSESMENTS. It is intended that this Deed Restriction is irrevocable and shall constitute an enforceable restriction within the meaning of a) Article XIII, section 8, of the California Constitution; and b) section 402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, this Deed Restriction shall be deemed to constitute a servitude upon and burden to the Property within the meaning of section 3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

3. RIGHT OF ENTRY. DPR or its agent or employees may enter onto the Property at times reasonably acceptable to Owner(s) to ascertain whether the use restrictions set forth above are being observed.

4. REMEDIES. Any act, conveyance, contract, or authorization by Owner(s) whether written or oral which uses or would cause to be used or would permit use of the Property contrary to the terms of this Deed Restriction will be deemed a violation and a breach hereof. DPR may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of this Deed Restriction up to and including a lien sale of the property. In the event of a breach, any forbearance on the part of DPR to

enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding such breach, or any subsequent breach.

SEVERABILITY. If any provision of these restrictions is held to be invalid, or for any reason becomes unenforceable, no other provision shall be affected or impaired.

AUTHORIZED REPRESENTATIVE Signature Date

Print Name and Title

Business Name (if property is owned by a business):

Additional signature, if required Date

Print Name and Title

Grant Payments

Payments may be requested after a PROJECT is approved and the contract is encumbered. Payment requests are processed through the State Controller's Office and mailed to the GRANTEE approximately six to eight weeks from the date OGALS approves the request.

Payment Rules

1. A Grant Expenditure Form (see page 35) is required with all reimbursement and final payment requests.
2. Payment requests prior to groundbreaking are limited to 25% of the PROJECT amount.
3. Payments before the final payment may not exceed 80% of the PROJECT amount. 20% of the PROJECT amount is retained for the final reimbursement.
4. A deed restriction is required prior to processing any reimbursement payments except an acquisition ADVANCE.
5. Group costs together to avoid frequent payment requests. Reimbursement requests greater than \$10,000 are encouraged.
6. For PROJECTS where match is required, GRANTEES must show eligible costs equal to 125% of the requested reimbursement amount (see page 13).
7. Complete CEQA prior to requesting any construction reimbursement.
8. Provide a sample timesheet to the PROJECT OFFICER *prior to* incurring any IN-HOUSE EMPLOYEE SERVICES costs, and if claiming IN-HOUSE EMPLOYEE SERVICES costs, provide a sample timesheet with each reimbursement payment request.
9. Provide a summary list of bidders, recommendation by reviewer of bidders, awarding by governing body and contract agreement to the PROJECT OFFICER *prior to requesting reimbursement* for costs on contracts requiring a bid process.
10. Provide construction progress photos, including a photo with the construction sign visible on the PROJECT site (see page 28), with all construction payment requests.
11. OGALS may withhold payment if the GRANTEE has outstanding issues, such as:
 - breach of any other contract with OGALS
 - an unresolved audit exception
 - an outstanding conversion
 - park sites closed or inadequately maintained
 - overdue Project Status Reports
 - other unmet grant requirements

Payment Request Form Instructions

- All payment request types (reimbursement, final, ADVANCE) require this form.
- Payment requests may be submitted by e-mail to the PROJECT OFFICER.
- Round all amounts to the nearest whole dollar.
- A Grant Expenditure Form (see page 35) is required with all reimbursement and final payment requests.
- Complete the Payment Request Form as follows:
 1. PROJECT Number - Number assigned by OGALS when this PROJECT was approved.
 2. Contract Number - As shown in Certification of Funding section of the contract
 3. APPLICANT - GRANTEE name as shown on the contract
 4. PROJECT Title - Name of the PROJECT as shown in the Application
 5. Type of Payment – check appropriate box on form
 6. Payment Information – always round to the nearest dollar.
 7. Send Warrant To - AGENCY name, address and contact person
 8. Signature of AUTHORIZED REPRESENTATIVE according to the Resolution

Payment Request Form

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

PAYMENT REQUEST State Grant Programs

See Instructions on Page 2.

1. PROJECT NUMBER		2. CONTRACT NUMBER	
3. APPLICANT			
4. PROJECT NAME			
5. TYPE OF PAYMENT <input type="checkbox"/> Advance <input type="checkbox"/> Reimbursement <input type="checkbox"/> Final			
6. PAYMENT INFORMATION <i>(Round all figures to the nearest dollar)</i>			
a. Grant Project Amount		\$	
b. Funds Received To Date		\$	
c. Available (a. minus b.)		\$	
d. Amount Of This Request		\$	
e. Remaining Funds After This Payment (c. minus d.)		\$	
7. SEND WARRANT TO:			
AGENCY NAME			
STREET ADDRESS			
CITY/STATE/ZIP CODE			
8. CERTIFICATION AND SIGNATURE OF PERSON AUTHORIZED IN RESOLUTION <i>I represent and warrant that I have full authority to execute this payment request on behalf of the Grantee. I declare under penalty of perjury, under the laws of the State of California, that this report, and any accompanying documents, for the above-mentioned Grant is true and correct to the best of my knowledge.</i>			
SIGNATURE OF PERSON AUTHORIZED IN RESOLUTION		TITLE	DATE
▶			
FOR CALIFORNIA DEPARTMENT OF PARKS AND RECREATION USE ONLY			
PAYMENT APPROVAL SIGNATURE		DATE	
▶			

DPR 212 (Rev. 3/2015)(Excel 3/3/2015)(Page 1 of 2)

Grant Expenditure Form

All payment requests require a summary of costs incurred. An electronic version of the [grant expenditure form](http://www.parks.ca.gov/grants) is available at www.parks.ca.gov/grants. GRANTEES may use their own spreadsheet if it contains the required information shown below. Keep copies of invoices or warrants with the PROJECT records, available to OGALS on request. Only provide the following information to OGALS:

PROJECT Number:

Warrant/ Check #(1)	Date(2)	Recipient(3)	Purpose(4)	Pre-Construction Amount(5)	Construction Amount(6)
------------------------	---------	--------------	------------	-------------------------------	---------------------------

PRE-CONSTRUCTION Subtotal (5)	\$
Construction Subtotal (6)	\$
Grand Total (5) + (6)	\$

List only ELIGIBLE COSTS charged to the GRANT.

Column (1) Electronic payment numbers/electronic funds transfer numbers in the “Warrant/Check Number” column are acceptable. Include an “EP” next to the electronic payment numbers/electronic funds transfer numbers.

If IN-HOUSE EMPLOYEE SERVICES or GRANTEE’S own equipment was used, a work order or other tracking number can be used instead of a check/warrant number.

Column (2) Date payment was made to recipient. If IN-HOUSE EMPLOYEE SERVICES were used, provide the date range with a summary of actual hours worked, and a sample timesheet.

Column (3) Name of Contractor, IN-HOUSE EMPLOYEE SERVICES, or other entity providing services and/or materials.

Column (4) SCOPE item related to the expenditure and a brief description, such as “playground design,” “community center permits,” “walkway materials,” “sports field construction.”

Column (5) PRE-CONSTRUCTION costs eligible for up to 25% of the GRANT.

Column (6) DEVELOPMENT costs eligible for up to 100% of GRANT.

Project Completion Packet

PROJECT COMPLETION PACKETS must be submitted by March 31st of the year the contract expires.

GRANTEES are encouraged to submit documents digitally, as .pdf files. E-mail the documents to the PROJECT OFFICER as separate digital files, labeled as the document item. GRANTEES should follow up with PROJECT OFFICER to confirm documents were received.

The final payment (not less than 20% of the PROJECT amount) will be processed after PROJECT COMPLETION and the following occurs:

1. Approval of the PROJECT COMPLETION PACKET (page 37).
2. Site inspection by the PROJECT OFFICER to verify PROJECT COMPLETION.

To request the final payment and complete the PROJECT, the GRANTEE must submit the following documents:

1. Payment Request Form (page 35)
2. Grant Expenditure Form (page 35)
3. Final Funding Sources Form (page 20)
4. GHG Emissions Reduction Worksheet (page 24)
5. PROJECT COMPLETION Certification Form (page 38)
6. Photo of the bond act sign and location (page 28)
7. Recorded Deed Restriction, if not already provided (page 29)
8. Completed CEQA, if not already provided (page 21)
9. Notice of Completion (optional)⁵
10. Audit checklist with items checked that GRANTEE will retain for five years following receipt of final payment (page 50)

For acquisition PROJECTS, the GRANTEE must submit these additional documents:

1. A copy of the recorded deed to the property
2. A map sufficient to verify the description of the property including parcel numbers and acreage
3. Copy of title insurance policy
4. Copy of title report

⁵ OGALS recommends that the GRANTEE file a Notice of Completion with the County Recorder pursuant to State of California Civil Code §3093. Filing the Notice of Completion is not a PROJECT COMPLETION requirement.



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Project Completion Certification Form

Grantee:

Project Number:

Grantee contact for audit purposes

Name:

Address:

Phone: ()

Email:

Project completion – list the grant scope items:

Provide revised Funding Sources Form

Interest earned on advanced funds: \$

Interest spent on eligible costs: \$

Was a Notice of Completion filed with the County Recorder or other appropriate entity?

Yes / No

Certification:

I hereby certify that all Grant funds were expended on the above-named Project and that the Project is complete and we have made final payment for all work done.

I have read California Penal Code §118 and understand that every person who testifies, declares, deposes, or certifies under penalty of perjury and willfully states as true any material matter which he or she knows to be false, is guilty of perjury, which is a felony punishable by imprisonment in state prison for two, three, or four years.

Furthermore, I have read California Penal Code §72 and understand that every person who, with the intent to defraud, presents for allowance or for payment to any state board or officer, or to any county, city, or District board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, is guilty of a felony-misdemeanor punishable either by imprisonment in county jail for a period of not more than one year, by a fine not exceeding one thousand dollars, or both, or by imprisonment in state prison, by a fine not exceeding ten thousand dollars, or both.

I represent and warrant that I have full authority to execute this Project Completion Certification on behalf of the Grantee. I declare under penalty of perjury that the foregoing certification of Project Completion for the above-mentioned Grant is true and correct.

AUTHORIZED REPRESENTATIVE Signature

Date

Print Name and Title

Advance Payments

- OGALS reserves the right to disapprove ADVANCE payment requests.
- Past performance, GRANTEE capacity, and the GRANTEE's financial resources will all be considered before issuing an ADVANCE.
- *GRANTEES that are unable to finance a considerable portion of their PROJECTS are encouraged to seek an allocation transfer (page 54).*
- ADVANCE payments may be requested for costs the GRANTEE will incur within the next six months.
- ADVANCE funds must be placed in an interest-bearing account. Any interest earned on those funds *must* be spent within six months of receipt.
- The sum of DEVELOPMENT ADVANCES cannot exceed 50% of the PROJECT amount.

Pre-Construction Advance

Payment Type	Maximum Request	When to Request	Documents to Send to PROJECT OFFICER
Costs to be incurred in next six months	Preconstruction estimate shown on Development Project SCOPE/Cost Estimate Form	After the contract has been encumbered	<ul style="list-style-type: none">• Payment Request Form• ADVANCE justification (see below)• Sample timesheet if funds will be spent on IN-HOUSE EMPLOYEE SERVICES

Construction Advance

Payment Type	Maximum Request	When to Request	Documents to Send to PROJECT OFFICER
Costs to be incurred in next six months	No more than 50% of the grant amount.	After the contract has been encumbered, and construction will commence during the next six months	<ul style="list-style-type: none">• Payment Request Form• ADVANCE justification (see below)• Bid documents (see page 33, number 9)• Copy of signed contract and a notice to proceed or IN-HOUSE EMPLOYEE SERVICES schedule• Filed NOD or NOE (page Error! Bookmark not defined.)• Sample timesheet if funds will be spent on IN-HOUSE EMPLOYEE SERVICES

Advance Justification

Provide the following information:

- Explanation as to why an ADVANCE is needed instead of a reimbursement. Describe any hardships the GRANTEE will experience if a reimbursement were issued instead of an ADVANCE.
- A payment schedule, with a month-by-month estimate, for up to six months, showing the anticipated amount needed, and to whom the funds will be paid (IN-HOUSE EMPLOYEE SERVICES or name of contractor). The six-month period should begin six to eight weeks after payment request is submitted.

- A funding plan, indicating how the GRANTEE intends to provide cash flow to the percentage of the PROJECT exceeding the 50% ADVANCE limit.
- A statement indicating the GRANTEE will put the advanced funds into a separate, interest bearing account, and spend any interest earned on the PROJECT.
- An acknowledgement that all invoices and contracts pursuant to which payments are made shall be made available to OGALS on demand.

Clearing the Advance

ADVANCES must be cleared with six months of receipt, or earlier. ADVANCES should be cleared incrementally, that is, as costs are incurred.

An ADVANCE is cleared as follows:

- Submit a grant expenditure form (see page 35) documenting expenditures of eligible costs equal to the ADVANCE amount *plus any earned interest* (or 125% of the ADVANCE amount if match is required).
- Submit photos of construction completed and the construction sign (see page 28) with the ADVANCE funds (for construction ADVANCES).
- Return the balance of unspent GRANT funds to OGALS no later than thirty days after the end of the six-month ADVANCE period.
- OGALS will then return the GRANT funds to the contract balance. OGALS cannot return interest to the contract balance.

Subsequent Payments

ADVANCE payments must be cleared before *any* payments will be approved.

This requirement may be waived in cases where a PROJECT requires timely payments to contractors, and the remaining balance of unspent ADVANCED funds cannot cover the next PROJECT payment. The following are required to request a waiver:

1. A letter to the PROJECT OFFICER, signed by the AUTHORIZED REPRESENTATIVE, explaining why the waiver is needed.
2. A statement in the letter that the majority of ADVANCED funds has been cleared.
3. A payment schedule with month by month estimates detailing the anticipated amount needed including the unspent balance of previously ADVANCED funds, along with the additional requested reimbursement or ADVANCE.

Acquisition Advance into Escrow

Payment Type	When to Request	Documents to Send
ADVANCES up to 100% of the GRANT and MATCH amounts	After the contract is encumbered and escrow is open	See following instructions 1. Escrow letter 2. Title report cover page 3. Payment request form

The following items are required to request an ADVANCE payment into escrow:

1. A letter on the GRANTEE's letterhead, addressing all of the following elements, and signed by the GRANTEE's AUTHORIZED REPRESENTATIVE:

- a) Name, address and telephone number of the title company or escrow holder, and the escrow account number to which the GRANT funds will be disbursed.
 - b) Copy of the property appraisal and written concurrence (page 14).
 - c) GRANT contract number and amount of GRANT funds requested.
 - d) A statement by the GRANTEE that “the preliminary title report shows that there are no liens, easements, or any other restrictions that would prevent completion of the PROJECT SCOPE and fulfillment of the contract provisions.”
 - e) A statement by the GRANTEE that “all funds (exclusive of the GRANT funds to be provided under this agreement) needed for the completion of the acquisition of the property or properties have been secured and have been or will be deposited to escrow on or about the same date as the requested GRANT funds.” In making this statement, the GRANTEE is entitled to reasonably rely on the representations of the seller.
2. Cover page of the preliminary title report.
 3. Payment Request Form. The “Send Warrant To” item 7 on the Payment Request Form must be completed using the title company’s or escrow holder’s name, mailing address, and contact person (see page 35).

After approval by OGALS, the payment will be mailed by the State Controller’s Office to the designated escrow company within approximately 30 working days.

Returning Unexpended Advanced Funds for Acquisition

If all or a portion of GRANT funds ADVANCED to the title or escrow company are not expended, the unused portion of the ADVANCED funds must be returned to OGALS within 60 days after completion of the acquisitions), within 60 days of the acquisition withdrawal, or within 60 days after the end of the GRANT PERFORMANCE PERIOD, *whichever is earliest*.

Per Capita Contract



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Sample Grant Contract Per Capita Grant Program

GRANTEE: Grantee Name

GRANT PERFORMANCE PERIOD is from July 1, 2018 through June 30, 2024

CONTRACT PERFORMANCE PERIOD is from July 1, 2018 through June 30, 2048

The GRANTEE agrees to the terms and conditions of this contract (CONTRACT), and the State of California, acting through its Director of the Department of Parks and Recreation, pursuant to the State of California, agrees to fund the total State grant amount indicated below.

The GRANTEE agrees to complete the PROJECT SCOPE(s) as defined in the Development PROJECT SCOPE/Cost Estimate Form or acquisition documentation for the application(s) filed with the State of California.

The General and Special Provisions attached are made a part of and incorporated into the Contract.

Total State grant amount not to exceed \$ [GRANT amount]

GRANTEE

AUTHORIZED REPRESENTATIVE Signature

Date

Print Name and Title

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

AUTHORIZED REPRESENTATIVE Signature

Date

Print Name and Title

CERTIFICATION OF FUNDING (FOR STATE USE ONLY)					
AMOUNT OF ESTIMATE \$		CONTRACT NUMBER		FUND	
ADJ. INCREASING ENCUMBRANCE \$		APPROPRIATION			
ADJ. DECREASING ENCUMBRANCE \$		ITEM VENDOR NUMBER			
UNENCUMBERED BALANCE \$		LINE ITEM ALLOTMENT		CHAPTER	STATUTE
T.B.A. NO.	B.R. NO.	INDEX	Funding Source	FISCAL YEAR	
				OBJ. EXPEND	
I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance.					
SIGNATURE OF ACCOUNTING OFFICER			DATE		

I. RECITALS

This CONTRACT is entered into between the California Department of Parks and Recreation (hereinafter referred to as "GRANTOR," "DEPARTMENT" or "STATE") and [grantee name] (hereinafter referred to as "GRANTEE").

The DEPARTMENT hereby grants to GRANTEE a sum (also referred to as "GRANT MONIES") not to exceed \$grant amount, subject to the terms and conditions of this CONTRACT and the 20xx/xx California State Budget, Chapter xx, statutes of 20xx, Item number – 3790-xxx-xxxx (appropriation chapter and budget item number hereinafter referred to as "PER CAPITA GRANT"). These funds shall be used for completion of the GRANT SCOPE(S).

The Grant Performance Period is from July 1, 20xx to June 30, 20xx.

II. GENERAL PROVISIONS

A. Definitions

As used in this CONTRACT, the following words shall have the following meanings:

1. The term "ACT" means the California Drought, Water, Parks Climate, Coastal Protection, and Outdoor Access for All Act of 2018, as referred to in section I of this CONTRACT.
2. The term "APPLICATION" means the individual project APPLICATION packet for a project pursuant to the enabling legislation and/or grant program process guide requirements.
3. The term "DEPARTMENT" or "STATE" means the California Department of Parks and Recreation.
4. The term "DEVELOPMENT" means capital improvements to real property by means of, but not limited to, construction, expansion, and/or renovation, of permanent or fixed features of the property.
5. The term "GRANTEE" means the party described as the GRANTEE in Section I of this CONTRACT.
6. The term "GRANT SCOPE" means the items listed in the GRANT SCOPE/Cost Estimate Form or acquisition documentation found in each of the APPLICATIONS submitted pursuant to this grant.
7. The term "PROCEDURAL GUIDE" means the document identified as the "Procedural Guide for California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 Per Capita Program." The PROCEDURAL GUIDE provides the procedures and policies controlling the administration of the grant.

B. Project Execution

1. Subject to the availability of GRANT MONIES in the act, the STATE hereby grants to the GRANTEE a sum of money not to exceed the amount stated in Section I of this CONTRACT, in consideration of, and on condition that, the sum be expended in carrying out the purposes as set forth in the enabling legislation and referenced in the APPLICATION, Section I of this CONTRACT, and under the terms and conditions set forth in this CONTRACT.

The GRANTEE shall assume any obligation to furnish any additional funds that may be necessary to complete the GRANT SCOPE(S).

The GRANTEE agrees to submit any change or alteration from the original GRANT SCOPE(S) in writing to the STATE for prior approval. This applies to any and all changes that occur after

STATE has approved the APPLICATION. Changes in the GRANT SCOPE(S) must be approved in writing by the STATE.

2. The GRANTEE shall complete the GRANT SCOPE(S) in accordance with the time of the Grant Performance Period set forth in Section I of this CONTRACT, and under the terms and conditions of this CONTRACT.
3. The GRANTEE shall comply with the California Environmental Quality Act (Public Resources Code, §21000, et seq., Title 14, California Code of Regulations, §15000 et seq.).
4. The GRANTEE shall comply with all applicable current laws and regulations affecting DEVELOPMENT projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities, including but not limited to the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and the California Unruh Act (California Civil Code §51 et seq.).

C. Procedural Guide

1. GRANTEE agrees to abide by the PROCEDURAL GUIDE.
2. GRANTEE acknowledges that STATE may make reasonable changes to its procedures as set forth in the PROCEDURAL GUIDE. If STATE makes any changes to its procedures and guidelines, STATE agrees to notify GRANTEE within a reasonable time.

D. Project Administration

1. If GRANT MONIES are advanced for DEVELOPMENT projects, the advanced funds shall be placed in an interest bearing account until expended. Interest earned on the advanced funds shall be used on the project as approved by the STATE. If grant monies are advanced and not expended, the unused portion of the grant and any interest earned shall be returned to the STATE within 60 days after project completion or end of the Grant Performance Period, whichever is earlier.
2. The GRANTEE shall submit written project status reports within 30 calendar days after the STATE has made such a request. In any event, the GRANTEE shall provide the STATE a report showing total final project expenditures within 60 days of project completion or the end of the grant performance period, whichever is earlier. The Grant Performance Period is identified in Section I of this CONTRACT.
3. The GRANTEE shall make property or facilities acquired and/or developed pursuant to this contract available for inspection upon request by the STATE.

E. Project Termination

1. Project Termination refers to the non-completion of a GRANT SCOPE. Any grant funds that have not been expended by the GRANTEE shall revert to the STATE.
2. The GRANTEE may unilaterally rescind this CONTRACT at any time prior to the commencement of the project. The commencement of the project means the date of the letter notifying GRANTEE of the award or when the funds are appropriated, whichever is later. After project commencement, this CONTRACT may be rescinded, modified or amended only by mutual agreement in writing between the GRANTEE and the STATE, unless the provisions of this CONTRACT provide that mutual agreement is not required.
3. Failure by the GRANTEE to comply with the terms of the (a) PROCEDURAL GUIDE, (b) any legislation applicable to the ACT, (c) this CONTRACT as well as any other grant contracts, specified or general, that GRANTEE has entered into with STATE, may be cause for suspension of all obligations of the STATE unless the STATE determines that such failure was due to no fault of the GRANTEE. In such case, STATE may reimburse GRANTEE for eligible costs properly incurred in performance of this CONTRACT despite non-performance of the GRANTEE. To qualify for such reimbursement, GRANTEE agrees to mitigate its losses to the best of its ability.
4. Any breach of any term, provision, obligation or requirement of this CONTRACT by the GRANTEE shall be a default of this CONTRACT. In the case of any default by GRANTEE, STATE shall be entitled to all remedies available under law and equity, including but not limited to: a) Specific Performance; b) Return of all GRANT MONIES; c) Payment to the STATE of the fair market value of the project property or the actual sales price, whichever is higher; and d) Payment to the STATE of the costs of enforcement of this CONTRACT, including but not limited to court and arbitration costs, fees, expenses of litigation, and reasonable attorney fees.
5. The GRANTEE and the STATE agree that if the GRANT SCOPE includes DEVELOPMENT, final payment may not be made until the work described in the GRANT SCOPE is complete and the GRANT PROJECT is open to the public.

F. Budget Contingency Clause

If funding for any fiscal year is reduced or deleted by the budget act for purposes of this program, the STATE shall have the option to either cancel this contract with no liability occurring to the STATE, or offer a CONTRACT amendment to GRANTEE to reflect the reduced grant amount. This Paragraph shall not require the mutual agreement as addressed in Paragraph E, provision 2, of this CONTRACT.

G. Hold Harmless

1. The GRANTEE shall waive all claims and recourse against the STATE including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this CONTRACT except claims arising from the concurrent or sole negligence of the STATE, its officers, agents, and employees.
2. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the ACQUISITION, DEVELOPMENT, construction, operation or maintenance of the property described as the project which claims, demands or causes of action arise under California Government Code Section 895.2 or otherwise except for liability arising out of the concurrent or sole negligence of the STATE, its officers, agents, or employees.

3. The GRANTEE agrees that in the event the STATE is named as codefendant under the provisions of California Government Code Section 895 et seq., the GRANTEE shall notify the STATE of such fact and shall represent the STATE in the legal action unless the STATE undertakes to represent itself as codefendant in such legal action in which event the GRANTEE agrees to pay the STATE's litigation costs, expenses, and reasonable attorney fees.
4. The GRANTEE and the STATE agree that in the event of judgment entered against the STATE and the GRANTEE because of the concurrent negligence of the STATE and the GRANTEE, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request a jury apportionment.
5. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, costs, expenses or liability costs arising out of legal actions pursuant to items to which the GRANTEE has certified. The GRANTEE acknowledges that it is solely responsible for compliance with items to which it has certified.

H. Financial Records

1. The GRANTEE shall maintain satisfactory financial accounts, documents, including loan documents, and all other records for the project and to make them available to the STATE for auditing at reasonable times. The GRANTEE also agrees to retain such financial accounts, documents and records for five years following project termination or issuance of final payment, whichever is later.
The GRANTEE shall keep such records as the STATE shall prescribe, including records which fully disclose (a) the disposition of the proceeds of STATE funding assistance, (b) the total cost of the project in connection with such assistance that is given or used, (c) the amount and nature of that portion of the project cost supplied by other sources, and (d) any other such records that will facilitate an effective audit.
3. The GRANTEE agrees that the STATE shall have the right to inspect and make copies of any books, records or reports pertaining to this contract or matters related thereto during regular office hours. The GRANTEE shall maintain and make available for inspection by the STATE accurate records of all of its costs, disbursements and receipts with respect to its activities under this contract. Such accounts, documents, and records shall be retained by the GRANTEE for at least five years following project termination or issuance of final payment, whichever is later.
4. The GRANTEE shall use a generally accepted accounting system.

I. Use of Facilities

1. The GRANTEE agrees that the GRANTEE shall operate and maintain the property acquired or developed with the GRANT MONIES, for the duration of the Contract Performance Period.
2. The GRANTEE agrees that, during the Contract Performance Period, the GRANTEE shall use the property acquired or developed with GRANT MONIES under this contract only for the purposes of this grant and no other use, sale, or other disposition or change of the use of the property to one not consistent with its purpose shall be permitted except as authorized by the STATE and the property shall be replaced with property of equivalent value and usefulness as determined by the STATE.
3. The property acquired or developed may be transferred to another entity if the successor entity assumes the obligations imposed under this CONTRACT and with the approval of STATE.

4. Any real Property (including any portion of it or any interest in it) may not be used as security for any debt or mitigation, without the written approval of the STATE provided that such approval shall not be unreasonably withheld as long as the purposes for which the Grant was awarded are maintained. Any such permission that is granted does not make the STATE a guarantor or a surety for any debt or mitigation, nor does it waive the STATE'S rights to enforce performance under the Grant CONTRACT.
5. All real property, or rights thereto, acquired with GRANT MONIES shall be subject to an appropriate form of restrictive title, rights, or covenants approved by the STATE. If the project property is taken by use of eminent domain, GRANTEE shall reimburse STATE an amount at least equal to the amount of GRANT MONIES received from STATE or the pro-rated full market value of the real property, including improvements, at the time of sale, whichever is higher.
6. If eminent domain proceedings are initiated against GRANTEE, GRANTEE shall notify STATE within 10 days of receiving the complaint.

J. Nondiscrimination

1. The GRANTEE shall not discriminate against any person on the basis of sex, race, color, national origin, age, religion, ancestry, sexual orientation, or disability in the use of any property or facility developed pursuant to this contract.
2. The GRANTEE shall not discriminate against any person on the basis of residence except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.
3. All facilities shall be open to members of the public generally, except as noted under the special provisions of this project contract or under provisions of the enabling legislation and/or grant program.

K. Severability

If any provision of this CONTRACT or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the CONTRACT which can be given effect without the invalid provision or application, and to this end the provisions of this CONTRACT are severable.

L. Liability

1. STATE assumes no responsibility for assuring the safety or standards of construction, site improvements or programs related to the GRANT SCOPE. The STATE'S rights under this CONTRACT to review, inspect and approve the GRANT SCOPE and any final plans of implementation shall not give rise to any warranty or representation that the GRANT SCOPE and any plans or improvements are free from hazards or defects.
2. GRANTEE will secure adequate liability insurance, performance bond, and/or other security necessary to protect the GRANTEE'S and STATE'S interest against poor workmanship, fraud, or other potential loss associated with completion of the grant project.

M. Assignability

Without the written consent of the STATE, the GRANTEE'S interest in and responsibilities under this CONTRACT shall not be assignable by the GRANTEE either in whole or in part.

N. Use of Grant Monies

GRANTEE shall not use any grant funds (including any portion thereof) for the purpose of making any leverage loan, pledge, promissory note or similar financial device or transaction, without: 1) the prior written approval of the STATE; and 2) any financial or legal interests created by any such leverage loan, pledge, promissory note or similar financial device or transaction in the project property shall be completely subordinated to this CONTRACT through a Subordination Agreement provided and approved by the STATE, signed by all parties involved in the transaction, and recorded in the County Records against the fee title of the project property.

N. Section Headings

The headings and captions of the various sections of this CONTRACT have been inserted only for the purpose of convenience and are not a part of this CONTRACT and shall not be deemed in any manner to modify, explain, or restrict any of the provisions of this CONTRACT.

O. Waiver

Any failure by a party to enforce its rights under this CONTRACT, in the event of a breach, shall *not* be construed as a waiver of said rights; and the waiver of any breach under this CONTRACT shall *not* be construed as a waiver of any subsequent breach.

GRANTEE

AUTHORIZED REPRESENTATIVE Signature Date

Print Name and Title

STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

AUTHORIZED REPRESENTATIVE Signature Date

Print Name and Title

Accounting and Audits

Accounting Requirements

GRANTEES must use accounting practices that:

- Provide accounting data that clearly records costs incurred on the PROJECT and accurately reflects fiscal transactions, with the necessary controls and safeguards.
- Provide good audit trails, especially the source documents (purchase orders, receipts, progress payments, invoices, timecards, cancelled warrants, warrant numbers, etc.) specific to the PROJECT.

Accounting Rules for Employee Services (IN-HOUSE EMPLOYEE SERVICES)

GRANTEES must follow these accounting practices for employee services:

- Maintain time and attendance records as charges are incurred, identifying the employee through a name or other tracking system, and that employee's actual time spent on the PROJECT.
- Time estimates, including percentages, for work performed on the PROJECT are not acceptable.
- Time sheets that do not identify the specific employee's time spent on the PROJECT are not acceptable.
- Costs of the salaries and wages must be calculated according to the GRANTEE'S wage and salary scales, and may include benefit costs such as vacation, health insurance, pension contributions and workers' compensation.
- Overtime costs may be allowed under the GRANTEE'S established policy, provided that the regular work time was devoted to the same PROJECT.
- May not include overhead or cost allocation. These are costs generally associated with supporting an employee, such as rent, personnel support, IT, utilities, etc.

State Audit

Grants are subject to audit by DPR. All PROJECT records must be retained for five years after final payment was issued, or PROJECT terminated, whichever is later.

The GRANTEE must provide the following when an audit date and time has been confirmed by DPR:

- All PROJECT records, including the source documents and cancelled warrants, books, papers, accounts, time sheets, or other records listed in the Audit Checklist or requested by DPR.
- An employee having knowledge of the PROJECT and its records to assist the DPR auditor.

Record Keeping Recommendation

GRANTEES are encouraged to keep records of all eligible costs, including those not submitted to OGALS for payment. This provides a potential source of additional eligible costs, should any submitted expenses be deemed ineligible.

Contact the DPR Audits Office at (916) 657-0370 for questions about these requirements.

Audit Checklist

An audit of the PROJECT may be performed before or following PROJECT completion. The GRANTEE must retain and make available all PROJECT related records for five years following PROJECT termination or final payment of GRANT funds. Listed below are some of the items the auditor will examine during the review of your records as applicable. It is the responsibility of the GRANTEE to have these records available in a central location ready for review once an audit date and time has been confirmed. If you have any questions regarding these documents, contact the State Department of Parks and Recreation Audits Office at (916) 657-0370.

CONTRACTS

- ☐ Summary list of bidders (including individual bid packages)
- ☐ Recommendation by reviewer of bids
- ☐ Award by governing body (minutes of the meeting/resolution)
- ☐ Construction contract agreement
- ☐ Contract bonds (bid, performance, payment)
- ☐ Contract change orders
- ☐ Contractor's progress billings
- ☐ Payments to contractor (cancelled checks/warrants, bank statements, EFT receipts**)
- ☐ Stop Notices (filed by sub-contractors and release if applicable)
- ☐ Liquidated damages (claimed against the contractor)
- ☐ Notice of completion (recorded)

IN-HOUSE EMPLOYEE SERVICES*

- ☐ Authorization/work order identifying project
- ☐ Daily time sheets signed by employee and supervisor
- ☐ Hourly rate (salary schedules/payroll register)
- ☐ Fringe benefits (provide breakdown)

IN-HOUSE EQUIPMENT*

- ☐ Authorization/work order
- ☐ Daily time records identifying the project site
- ☐ Hourly rate related backup documents

MINOR CONTRACTS/ MATERIALS/ SERVICES/EQUIPMENT RENTALS

- ☐ Purchase orders/Contracts/Service Agreements
- ☐ Invoices
- ☐ Payments (cancelled checks/ warrants, bank statements and EFT receipts **)

ACQUISITION

- ☐ Appraisal Report
 - ☐ Did the owner accompany the appraiser?
 - ☐ 10 year history
- ☐ Statement of just compensation (signed by seller)
- ☐ Statement of difference (if purchased above appraisal)
- ☐ Waiver of just compensation (if purchased below appraisal: signed by seller)
- ☐ Final Escrow Closing Statement
- ☐ Cancelled checks/warrants, bank statements and EFT receipts, [payment(s) to seller(s)]
- ☐ GRANT deed (vested to the participant) or final order of condemnation
- ☐ Title insurance policy (issued to participant)
- ☐ Relocation documents
- ☐ Income (rental, grazing, sale of improvements, etc.)

INTEREST

- ☐ Schedule of interest earned on State funds advanced (Interest on grant advances is accountable, even if commingled in a pooled fund account and/or interest was never allocated back to the grant fund.)

AGREEMENT/CONTRACTS

- ☐ Leases, agreements, etc., pertaining to developed/acquired property
- ☐ Proof of insurance pertaining to developed/acquired property

** Estimated time expended on the projects is not acceptable. Actual time records and all supporting documentation must be maintained as charges are incurred and made available for verification at the time of audit.*

*** Front and back if copied.*

References

Public Resources Code relating to the Proposition 68 Per Capita program

80000.

This division shall be known, and may be cited, as the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018.

80001.

(b) It is the intent of the people of California that all of the following shall occur in the implementation of this division:

- (3) To the extent practicable, a project that receives moneys pursuant to this division will include signage informing the public that the project received funds from the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018.
- (5) To the extent practicable, a project that receives moneys pursuant to this division will provide workforce education and training, contractor, and job opportunities for disadvantaged communities.
- (7) To the extent practicable, administering entities should measure or require measurement of greenhouse gas emissions reductions and carbon sequestrations associated with projects that receive moneys pursuant to this division.
- (8) To the extent practicable, as identified in the "Presidential Memorandum--Promoting Diversity and Inclusion in Our National Parks, National Forests, and Other Public Lands and Waters," dated January 12, 2017, the public agencies that receive funds pursuant to this division will consider a range of actions that include, but are not limited to, the following:
 - (A) Conducting active outreach to diverse populations, particularly minority, low-income, and disabled populations and tribal communities, to increase awareness within those communities and the public generally about specific programs and opportunities.
 - (B) Mentoring new environmental, outdoor recreation, and conservation leaders to increase diverse representation across these areas.
 - (C) Creating new partnerships with state, local, tribal, private, and nonprofit organizations to expand access for diverse populations.
 - (D) Identifying and implementing improvements to existing programs to increase visitation and access by diverse populations, particularly minority, low-income, and disabled populations and tribal communities.
 - (E) Expanding the use of multilingual and culturally appropriate materials in public communications and educational strategies, including through social media strategies, as appropriate, that target diverse populations.
 - (F) Developing or expanding coordinated efforts to promote youth engagement and empowerment, including fostering new partnerships with diversity-serving and youth-serving organizations, urban areas, and programs.
 - (G) Identifying possible staff liaisons to diverse populations.

80002.

(d) "Department" means the Department of Parks and Recreation.

(n) "Severely disadvantaged community" means a community with a median household income less than 60 percent of the statewide average.

80020.

Moneys allocated pursuant to this division shall not be used to fulfill any mitigation requirements imposed by law.

CHAPTER 3.**80060.**

For purposes of this chapter, “district” means any regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with §5500) of Chapter 3 of Division 5, any recreation and park district formed pursuant to Chapter 4 (commencing with §5780) of Division 5, or any authority formed pursuant to Division 26 (commencing with §35100). With respect to any community or unincorporated region that is not included within a district, and in which no city or county provides parks or recreational areas or facilities, “district” also means any other entity, including, but not limited to, a district operating multiple-use parklands pursuant to Division 20 (commencing with §71000) of the Water Code.

80061.

- (a) The sum of two hundred million dollars (\$200,000,000) shall be available to the department, upon appropriation by the Legislature, for local park rehabilitation, creation, and improvement grants to local governments on a per capita basis. Grant recipients shall be encouraged to utilize awards to rehabilitate existing infrastructure and to address deficiencies in neighborhoods lacking access to the outdoors.
- (b) The sum of fifteen million dollars (\$15,000,000) shall be available to the department, upon appropriation by the Legislature, for grants to cities and districts in urbanized counties providing park and recreation services within jurisdictions of 200,000 or less in population. For purposes of this subdivision, “urbanized county” means a county with a population of 500,000 or more. An entity eligible to receive funds under this subdivision shall also be eligible to receive funds available under subdivision (a).
- (c) Unless the project has been identified as serving a severely disadvantaged community, an entity that receives an award pursuant to this section shall be required to provide a match of 20 percent as a local share.

80062.

- (a)(1) The department shall allocate 60 percent of the funds available pursuant to subdivision (a) of Section 80061 to cities and districts, other than a regional park district, regional park and open-space district, open-space authority, or regional open-space district. Each city’s and district’s allocation shall be in the same ratio as the city’s or district’s population is to the combined total of the state’s population that is included in incorporated and unincorporated areas within the county, except that each city or district shall be entitled to a minimum allocation of two hundred thousand dollars (\$200,000). If the boundary of a city overlaps the boundary of a district, the population in the overlapping area shall be attributed to each jurisdiction in proportion to the extent to which each operates and manages parks and recreational areas and facilities for that population. If the boundary of a city overlaps the boundary of a district, and in the area of overlap the city does not operate and manage parks and recreational areas and facilities, all grant funds for that area shall be allocated to the district.

- (2) On or before April 1, 2020, a city and a district that are subject to paragraph (1), and whose boundaries overlap, shall collaboratively develop and submit to the department a specific plan for allocating the grant funds in accordance with the formula specified in paragraph (1). If, by that date, the plan has not been developed and submitted to the department, the director shall determine the allocation of the grant funds between the affected jurisdictions.
- (b)(1) The department shall allocate 40 percent of the funds available pursuant to subdivision (a) of §80061 to counties and regional park districts, regional park and open-space districts, open-space authorities formed pursuant to Division 26 (commencing with §35100), and regional open-space districts formed pursuant to Article 3 (commencing with §5500) of Chapter 3 of Division 5.
- (2) Each county's allocation under paragraph (1) shall be in the same ratio that the county's population is to the total state population, except that each county shall be entitled to a minimum allocation of four hundred thousand dollars (\$400,000).
- (3) In any county that embraces all or part of the territory of a regional park district, regional park and open-space district, open-space authority, or regional open-space district, and whose board of directors is not the county board of supervisors, the amount allocated to the county shall be apportioned between that district and the county in proportion to the population of the county that is included within the territory of the district and the population of the county that is outside the territory of the district.
- (c) For the purpose of making the calculations required by this section, population shall be determined by the department, in cooperation with the Department of Finance, on the basis of the most recent verifiable census data and other verifiable population data that the department may require to be furnished by the applicant city, county, or district.
- (d) The Legislature intends all recipients of funds pursuant to subdivision (a) of §80061 to use those funds to supplement local revenues in existence on the effective date of the act adding this division. To receive an allocation pursuant to subdivision (a) of §80061, the recipient shall not reduce the amount of funding otherwise available to be spent on parks or other projects eligible for funds under this division in its jurisdiction. A one-time allocation of other funding that has been expended for parks or other projects, but which is not available on an ongoing basis, shall not be considered when calculating a recipient's annual expenditures. For purposes of this subdivision, the Controller may request fiscal data from recipients for the preceding three fiscal years. Each recipient shall furnish the data to the Controller no later than 120 days after receiving the request from the Controller.

80063.

- (a) The director of the department shall prepare and adopt criteria and procedures for evaluating applications for grants allocated pursuant to subdivision (a) of §80061. The application shall be accompanied by certification that the project is consistent with the park and recreation element of the applicable city or county general plan or the district park recreation plan, as the case may be.
- (b) To utilize available grant funds as effectively as possible, overlapping and adjoining jurisdictions and applicants with similar objectives are encouraged to combine projects and submit a joint application. A recipient may allocate all or a portion of its per capita share for a regional or state project.

Allocation Tables

Visit OGALS' [Per Capita webpage](http://www.parks.ca.gov/percapita) at www.parks.ca.gov/percapita for allocations.

Allocation Transfer

Entities that receive an allocation under the Per Capita program may transfer all or part of that allocation to another eligible entity, provided that the following requirements are met:

1. All required documentation must be submitted no later than six months from the end of the encumbrance period.
2. The transferring agency must submit a resolution authorizing the transfer of the allocation. The resolution must name the recipient entity and the transferred amount.⁶
3. The recipient must be eligible to receive Per Capita funds.
4. The recipient must have submitted the authorizing resolution shown on page 7.
5. The recipient must submit a resolution authorizing the receipt of funds; the resolution must state the donor and the transferred amount.

⁶ Please contact OGALS for sample transfer and recipient resolutions.

Definitions

Capitalized words and terms used in this guide are defined below.

ADVANCE – payment made to the GRANTEE for work that will occur in the future or work that has already occurred during the GRANT PERFORMANCE PERIOD and has not been paid for by the GRANTEE.

APPLICATION PACKET – the Application form and its required attachments described in the Application Checklist and Directions beginning on page 10.

AUTHORIZED REPRESENTATIVE – the GRANTEE’S designated position authorized in the Resolution to sign all required GRANT documents.

CEQA – the California Environmental Quality Act established policies and procedures requiring GRANTEES to identify, disclose to decision makers and the public, and attempt to lessen, significant impacts to environmental and historical resources that may occur as a result of the GRANTEE’S proposed PROJECT. (Public Resources Code §21000 et seq.; Title 14 California Code of Regulations §15000 et seq.)

CONSTRUCTION COSTS – costs incurred starting with the date when ground-breaking construction activities such as site preparation, grading, or gutting begins, and continuing to the end of the GRANT PERFORMANCE PERIOD.

CONTRACT PERFORMANCE PERIOD – the amount of time stated on the contract agreement, specifying the performance of the contractual grant obligations between the GRANTEE and DPR.

DEVELOPMENT – construction, expansion, or renovation.

DPR – the California Department of Parks and Recreation.

GRANT – funds made available to a GRANTEE for completion of the PROJECT SCOPE(s) during the GRANT PERFORMANCE PERIOD.

GRANTEE – an entity having a fully executed contract with DPR.

GRANT PERFORMANCE PERIOD – period of time that eligible costs may be incurred by the GRANTEE and paid for by DPR, as specified in the fully executed contract.

IN-HOUSE EMPLOYEE SERVICES – use of the GRANTEE’S employees working on the PROJECT SCOPE.

OGALS – DPR’S Office of Grants and Local Services.

PRE-CONSTRUCTION COSTS – costs incurred within the GRANT PERFORMANCE PERIOD for the planning, design, and permit phase of the PROJECT before construction can begin.

PROJECT – the SCOPE as described in the APPLICATION PACKET to be completed with GRANT funds.

PROJECT COMPLETION – when the PROJECT is complete and the facilities are open and useable by the public.

PROJECT COMPLETION PACKET – The documents listed on page 37 that are required in order to request final payment following PROJECT COMPLETION.

PROJECT OFFICER – an OGALS employee, who acts as a liaison with GRANTEES and administers GRANT funds, facilitates compliance with the Procedural Guide, and the GRANT contract.

SCOPE – the acquisition, recreation features, and major support amenities described in the APPLICATION PACKET that must be completed prior to final GRANT payment.

TOTAL PROJECT COST – the combined dollar amount of all funding sources used to complete the acquisition, or recreation features and major support amenities described in the APPLICATION PACKET.