

**FIRST AMENDMENT TO AGREEMENT**

This First Amendment of the Agreement, entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY OF ALAMEDA, a municipal corporation (hereinafter "City") MCK SERVICES, INC., a California corporation whose address is 865 Howe Road, Martinez, CA 94553 (hereinafter called the "Contractor"), in reference to the following:

**RECITALS:**

A. On June 16, 2014, an agreement was entered into by and between City and Contractor for Repair & Resurfacing of Certain Streets, Phase 33, PW No. 02-14-04 (hereinafter "Agreement"). The Agreement further stipulated that the contract can be mutually extended on a year by year basis for up to four additional years.

B. On June 18, 2015, the City and Contractor entered into the first contract extension for Repair and Resurfacing of Certain Streets, Phase 34, PW No. 04-15-07.

C. City and Contractor desire to modify the Agreement on the terms and conditions set forth herein. On June 2, 2015, the City Council approved the 2015-2017 Capital Budget. Five million is allocated for construction in Fiscal Year 2016-2017. Extend contract term for Repair and Resurfacing of Certain Streets, Phase 35, PW No. 03-16-03, and increase contract amount to five million (\$5,000,000). Revised Scope of Work is attached as Exhibit A1.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. Page 1, Article 1, TERM, first paragraph of the Agreement is modified to read as follows:

"The Contractor shall have ninety (90) consecutive working days from the date the work is to commence pursuant to the Notice to Proceed to diligently prosecute the work to completion."

2. Page 2, Article 3, COMPENSATION TO CONTRACTOR, first paragraph of the Agreement is modified to read as follows:

"Contractor shall be compensated for services performed pursuant to this Agreement in the amount and manner set forth in Exhibit A1 which is attached hereto and incorporated herein by this reference. Payment will be made in the same manner that claims of a like character are paid by the City, with checks drawn on the treasury of said City, to be taken from CIP 9820135."

3. Page 2, Article 4, COMPENSATION TO CONTRACTOR, fourth paragraph of the Agreement is modified to read as follows:

“Total compensation for work is \$4,545,385.79, with an approximate 10 percent contingency in the amount of \$454,614.21 for a total not to exceed amount of \$5,000,000. Use of contingency shall be for items of work outside the original scope and requires prior written authorization by the City.”

3. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

*Signatures on following page*

IN WITNESS WHEREOF, the parties hereto have caused this modification of Agreement to be executed on the day and year first above written.

MCK SERVICES, INC.  
A California Corporation



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Mark Hazen  
President (Sole Owner)

CITY OF ALAMEDA  
A Municipal Corporation

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Jill Keimach  
City Manager

RECOMMENDED FOR APPROVAL:



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Liam Garland  
Acting Public Works Director

APPROVED AS TO FORM:  
City Attorney



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Andrico Penick *5/24/16*  
Assistant City Attorney

**Repair & Resurfacing of Certain Streets, Phase 35  
No. P.W. 03-16-03**

Item	Description	Unit	Estimated Quantity	*Unit Price	Cost
1	R/R Curb, Portland Cement Concrete	LF	8,823	\$ 20.91	\$ 184,488.93
2	R/R Gutter, Portland Cement Concrete	SF	4,865	\$ 12.55	\$ 61,055.75
3	R/R Sidewalk & Curb Ramp, 3" PCC	SF	3,420	\$ 12.55	\$ 42,921.00
4	R/R Driveway Apron, 4" PCC	SF	3,700	\$ 12.55	\$ 46,435.00
5	Detectable Warnings	SF	3,300	\$ 29.27	\$ 96,591.00
6	Full Planing, 2" Deep	SY	2,700	\$ 3.61	\$ 9,747.00
6a	Full Planing, 2.5" Deep	SY	6,500	\$ 3.66	\$ 23,790.00
7	Wedge Planing, 6' x 1.5"	LF	10,450	\$ 1.62	\$ 16,929.00
8	HMA Patch, 2" deep	SF	6,000	\$ 1.62	\$ 9,720.00
9	Reconstruct Pavement Failed Area, 4" deep	CY	13,700	\$ 216.94	\$ 2,972,078.00
10	Reconstruct Pavement Failed Area, 6" deep	CY	1,647	\$ 220.08	\$ 362,471.76
11	Seal Random Crack Sealing	TN	9	\$ 3,346.00	\$ 30,114.00
12	Slurry Seal	SF	56,310	\$ 0.31	\$ 17,456.10
13	Hot Mix Asphalt, Type HMA-A	TN	4,750.0	\$ 92.52	\$ 439,470.00
14	Adjust Manhole Frames to Grade	EA	145	\$ 569.80	\$ 82,621.00
15	Adjust Survey Monument to Grade	EA	58	\$ 360.70	\$ 20,920.60
16	Replace Traffic Loop Detectors	EA	0	\$ 470.48	\$ -
17	Remove/Replace Thermoplastic/Painted Traffic Stripes, Pavement Markings and Markers	LS	1	\$ 55,500.00	\$ 55,500.00
18	Pavement Markers (Blue Reflective)	EA	123	\$ 12.55	\$ 1,543.65
19	EBMUD G5 Box	EA	190	\$ 360.70	\$ 68,533.00
20	Permit	ALLOW	1	\$ 3,000.00	\$ 3,000.00
				<b>SUBTOTAL</b>	<b>\$ 4,545,385.79</b>
				<b>10% Contingency</b>	<b>\$ 454,614.21</b>
				<b>TOTAL</b>	<b>\$ 5,000,000.00</b>

\*Indicates 2% increase in unit prices



COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTORS XTEND ENDORSEMENT ✓

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

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- A. Aircraft Chartered With Pilot
- B. Damage To Premises Rented To You
- C. Increased Supplementary Payments
- D. Incidental Medical Malpractice
- E. Who Is An Insured – Newly Acquired Or Formed Organizations
- F. Who Is An Insured – Broadened Named Insured – Unnamed Subsidiaries
- G. Blanket Additional Insured – Owners, Managers Or Lessors Of Premises
- H. Blanket Additional Insured – Lessors Of Leased Equipment
- I. Blanket Additional Insured – States Or Political Subdivisions – Permits
- J. Knowledge And Notice Of Occurrence Or Offense
- K. Unintentional Omission
- L. Blanket Waiver Of Subrogation
- M. Amended Bodily Injury Definition
- N. Contractual Liability – Railroads

PROVISIONS

A. AIRCRAFT CHARTERED WITH PILOT

The following is added to Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**

This exclusion does not apply to an aircraft that is:

- (a) Chartered with a pilot to any insured,
- (b) Not owned by any insured, and
- (c) Not being used to carry any person or property for a charge.

B. DAMAGE TO PREMISES RENTED TO YOU

1. The first paragraph of the exceptions in Exclusion j., **Damage To Property**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is deleted.
2. The following replaces the last paragraph of Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A. BODILY**

INJURY AND PROPERTY DAMAGE LIABILITY

Exclusions c. and g. through n. do not apply to "premises damage". Exclusion f.(1)(a) does not apply to "premises damage" caused by:

- a. Fire;
- b. Explosion;
- c. Lightning;
- d. Smoke resulting from such fire, explosion, or lightning; or
- e. Water;

unless Exclusion f. of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by another endorsement to this Coverage Part that has Exclusion – All Pollution Injury Or Damage or Total Pollution Exclusion in its title.

A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of **SECTION III – LIMITS OF INSURANCE**

3. The following replaces Paragraph 6, of SECTION III - LIMITS OF INSURANCE

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "premises damage" to any one premises. The Damage To Premises Rented To You Limit will apply to all "property damage" proximately caused by the same "occurrence", whether such damage results from fire, explosion, lightning, smoke resulting from such fire, explosion, or lightning, or water, or any combination of any of these causes. The Damage To Premises Rented To You Limit will be:

- a. The amount shown for the Damage To Premises Rented To You Limit on the Declarations of this Coverage Part; or
- b. \$300,000 if no amount is shown for the Damage To Premises Rented To You Limit on the Declarations of this Coverage Part.

4. The following replaces Paragraph a. of the definition of "insured contract" in the DEFINITIONS Section

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 "premises damage" is not an "insured contract".

5. The following is added to the DEFINITIONS Section

"Premises damage" means "property damage" to

- a. Any premises while rented to you or temporarily occupied by you with permission of the owner; or
- b. The contents of any premises while such premises is rented to you, if you rent such premises for a period of seven or fewer consecutive days.

6. The following replaces Paragraph 4.b.(1)(b) of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

(b) That is insurance for "premises damage"; or

7. Paragraph 4.b.(1)(c) of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is deleted

C. INCREASED SUPPLEMENTARY PAYMENTS

- 1. The following replaces Paragraph 1.b. of SUPPLEMENTARY PAYMENTS - COVERAGES A AND B of SECTION I - COVERAGES:
  - a. Up to \$2,500 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- 2. The following replaces Paragraph 1.d. of SUPPLEMENTARY PAYMENTS - COVERAGES A AND B of SECTION I - COVERAGES:
  - 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.

D. INCIDENTAL MEDICAL MALPRACTICE

- 1. The following is added to the definition of "occurrence" in the DEFINITIONS Section.
 

"Occurrence" also means an act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person.
- 2. The following is added to Paragraph 2.a.(1) of SECTION II - WHO IS AN INSURED.
 

Paragraph (1)(d) above does not apply to "bodily injury" arising out of providing or failing to provide

(i) "incidental medical services" by any of your "employees" who is a nurse practitioner, registered nurse, licensed practical nurse, nurse assistant, emergency medical technician or paramedic, or

(ii) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business

## COMMERCIAL GENERAL LIABILITY

3. The following is added to Paragraph 5. of **SECTION III – LIMITS OF INSURANCE**.

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following exclusion is added to Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

### **Sale Of Pharmaceuticals**

"Bodily injury" or "property damage" arising out of the willful violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of, the insured.

5. The following is added to the **DEFINITIONS** Section.

"Incidental medical services" means:

- a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction or the related furnishing of food or beverages; or
- b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

"Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

6. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**

The insurance is excess over any valid and collectible other insurance available to the insured, whether primary, excess, contingent or on any other basis, that is available to any of your "employees" or "volunteer workers" for "bodily injury" that arises out of providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

### **E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED ORGANIZATIONS**

The following replaces Paragraph 4. of **SECTION II – WHO IS AN INSURED**

4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, of which you are the sole owner or in which you maintain the majority ownership interest, will qualify as a Named Insured if there is no other insurance which provides similar coverage to that organization. However:

- a. Coverage under this provision is afforded only:

(1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it, or

(2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it, and we agree in writing that it will continue to be a Named Insured until the end of the policy period;

- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization, and

- c. Coverage B does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.

### **F. WHO IS AN INSURED – BROADENED NAMED INSURED – UNNAMED SUBSIDIARIES**

The following is added to **SECTION II – WHO IS AN INSURED**

Any of your subsidiaries, other than a partnership, joint venture or limited liability company, that is not shown as a Named Insured in the Declarations is a Named Insured if you maintain an ownership interest of more than 50% in such subsidiary on the first day of the policy period.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal injury" or "advertising injury" caused by an offense committed after the date, if any, during the policy period, that you no longer maintain an ownership interest of more than 50% in such subsidiary.

COMMERCIAL GENERAL LIABILITY

**G. BLANKET ADDITIONAL INSURED – OWNERS, MANAGERS OR LESSORS OF PREMISES**

The following is added to **SECTION II – WHO IS AN INSURED**

Any person or organization that is a premises owner, manager or lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" that

- a. Is "bodily injury" or "property damage" that occurs, or is "personal injury" or "advertising injury" caused by an offense that is committed, subsequent to the execution of that contract or agreement, and
- b. Arises out of the ownership, maintenance or use of that part of any premises leased to you

The insurance provided to such premises owner, manager or lessor is subject to the following provisions:

- a. The limits of insurance provided to such premises owner, manager or lessor will be the minimum limits which you agreed to provide in the written contract or agreement, or the limits shown on the Declarations, whichever are less.
- b. The insurance provided to such premises owner, manager or lessor does not apply to:

(1) Any "bodily injury" or "property damage" that occurs, or "personal injury" or "advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises, or

(2) Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, lessor or manager.

- c. The insurance provided to such premises owner, manager or lessor is excess over any valid and collectible other insurance available to such premises owner, manager or lessor, whether primary, excess, contingent or on any other basis, unless you have agreed in the written contract or agreement that this insurance must be primary to, or non-contributory with, such other insurance, in which case this insurance will be primary to, and non-contributory with, such other insurance.

**H. BLANKET ADDITIONAL INSURED – LESSORS OF LEASED EQUIPMENT**

The following is added to **SECTION II – WHO IS AN INSURED**

Any person or organization that is an equipment lessor and that you have agreed in a written contract or agreement to include as an insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" that

- a. Is "bodily injury" or "property damage" that occurs, or is "personal injury" or "advertising injury" caused by an offense that is committed, subsequent to the execution of that contract or agreement, and
- b. Is caused, in whole or in part, by your acts or omissions in the maintenance, operation or use of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor is subject to the following provisions:

- a. The limits of insurance provided to such equipment lessor will be the minimum limits which you agreed to provide in the written contract or agreement, or the limits shown on the Declarations, whichever are less
- b. The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" that occurs, or "personal injury" or "advertising injury" caused by an offense that is committed, after the equipment lease expires.
- c. The insurance provided to such equipment lessor is excess over any valid and collectible other insurance available to such equipment lessor, whether primary, excess, contingent or on any other basis, unless you have agreed in the written contract or agreement that this insurance must be primary to, or non-contributory with, such other insurance, in which case this insurance will be primary to, and non-contributory with, such other insurance.

**I. BLANKET ADDITIONAL INSURED – STATES OR POLITICAL SUBDIVISIONS – PERMITS**

The following is added to **SECTION II – WHO IS AN INSURED**

Any state or political subdivision that has issued a permit in connection with operations performed by you or on your behalf and that you are required

CITY OF ALAMEDA  
Risk Management

Date: 5-25-16  
City Risk Manager  
Lucretia Akil

COMMERCIAL GENERAL LIABILITY

by any ordinance, law or building code to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of such operations.

The insurance provided to such state or political subdivision does not apply to:

- a. Any "bodily injury," "property damage," "personal injury" or "advertising injury" arising out of operations performed for that state or political subdivision, or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

**J. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE**

The following is added to Paragraph 2, **Duties In The Event of Occurrence, Offense, Claim or Suit**, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

e. The following provisions apply to Paragraph a. above, but only for the purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:

- (1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture or limited liability company) or any "employee" authorized by you to give notice of an "occurrence" or offense
- (2) If you are a partnership, joint venture or limited liability company, and none of your partners, joint venture members or managers are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by
  - (a) Any individual who is:
    - (i) A partner or member of any partnership or joint venture;

- (ii) A manager of any limited liability company; or
- (iii) An executive officer or director of any other organization, that is your partner, joint venture member or manager, or
- (b) Any "employee" authorized by such partnership, joint venture, limited liability company or other organization to give notice of an "occurrence" or offense.

(3) Notice to us of such "occurrence" or of an offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraphs e. (1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply

However, if this Coverage Part includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph e. does not affect that requirement.

**K. UNINTENTIONAL OMISSION**

The following is added to Paragraph 6., **Representations**, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

**L. BLANKET WAIVER OF SUBROGATION**

The following is added to Paragraph 8, **Transfer Of Rights Of Recovery Against Others To Us**, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

CITY OF ALAMEDA  
Risk Management

 Date 5-25-16  
Lucretia Akil, City Risk Manager

## COMMERCIAL GENERAL LIABILITY

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of

- a. "Bodily injury" or "property damage" that occur; or
- b. "Personal injury" or "advertising injury" caused by an offense that is committed,

subsequent to the execution of that contract or agreement.

### M. AMENDED BODILY INJURY DEFINITION

The following replaces the definition of "bodily injury" in the **DEFINITIONS** Section

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

### N. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph c. of the definition of "insured contract" in the **DEFINITIONS** Section:
  - c. Any easement or license agreement.
2. Paragraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

BLANKET ADDITIONAL INSURED (CONTRACTORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- 1. WHO IS AN INSURED – (Section II) is amended to include any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:
  - a) Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
  - b) If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.
- 2. The insurance provided to the additional insured by this endorsement is limited as follows:
  - a) In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III – Limits Of Insurance.
  - b) The insurance provided to the additional insured does not apply to "bodily injury", "property damage" or "personal injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
    - i. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and
    - ii. Supervisory, inspection, architectural or engineering activities.
- 3. The insurance provided to the additional insured by this endorsement is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover under this endorsement. However, if the "written contract requiring insurance" specifically requires that this insurance apply on a primary basis or a primary and non-contributory basis, this insurance is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that "other insurance". But the insurance provided to the additional insured by this endorsement still is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under such "other insurance".
- 4. As a condition of coverage provided to the additional insured by this endorsement:
  - a) The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:
- 5. The insurance provided to the additional insured does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

CITY OF ALAMEDA Risk Management

Signature: [Handwritten Signature] Date: 5-25-16  
Lucretia Akil, City Risk Manager

## COMMERCIAL GENERAL LIABILITY

- i. How, when and where the "occurrence" or offense took place;
  - ii. The names and addresses of any injured persons and witnesses; and
  - iii. 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 the additional insured, the additional insured must:
- i. Immediately record the specifics of the claim or "suit" and the date received; and
  - ii. Notify us as soon as practicable.
- The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c) The additional insured must immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- d) The additional insured must tender the defense and indemnity of any claim or "suit" to

any provider of "other insurance" which would cover the additional insured for a loss we cover under this endorsement. However, this condition does not affect whether the insurance provided to the additional insured by this endorsement is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured as described in paragraph 3. above.

5. The following definition is added to SECTION V. - DEFINITIONS:

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

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

INSURED: MCK Services Inc.

POLICY #: DT8105E900287TIL16

POLICY PERIOD: 05/20/2016

TO 05/20/2017

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

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

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |   |   |
|---|---|
| <b>A. BROAD FORM NAMED INSURED</b>                                  | <b>H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT</b>  |
| <b>B. BLANKET ADDITIONAL INSURED</b>                                | <b>I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT</b> |
| <b>C. EMPLOYEE HIRED AUTO</b>                                       | <b>J. PERSONAL EFFECTS</b>  |
| <b>D. EMPLOYEES AS INSURED</b>                                      | <b>K. AIRBAGS</b>   |
| <b>E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS</b>                 | <b>L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS</b>                    |
| <b>F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS</b> | <b>M. BLANKET WAIVER OF SUBROGATION</b>                               |
| <b>G. WAIVER OF DEDUCTIBLE – GLASS</b>                              | <b>N. UNINTENTIONAL ERRORS OR OMISSIONS</b>                           |

### PROVISIONS

#### A. BROAD FORM NAMED INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – LIABILITY COVERAGE:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

#### B. BLANKET ADDITIONAL INSURED

The following is added to Paragraph c. in A.1., **Who Is An Insured**, of SECTION II LIABILITY COVERAGE:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and

executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II

#### C. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – LIABILITY COVERAGE:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

CITY OF ALAMEDA  
Risk Management

5-25-14  
Date

Lucretia Akil, City Risk Manager

**COMMERCIAL AUTO**

**2. The following replaces Paragraph b. in B.6., Other Insurance, of SECTION IV - BUSINESS AUTO CONDITIONS:**

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

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

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

**D. EMPLOYEES AS INSURED**

The following is added to Paragraph A.1., Who Is An Insured, of SECTION II - LIABILITY COVERAGE:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

**E. SUPPLEMENTARY PAYMENTS - INCREASED LIMITS**

**1. The following replaces Paragraph A.2.a.(2), of SECTION II - LIABILITY COVERAGE**

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

**2. The following replaces Paragraph A.2.a.(4), of SECTION II - LIABILITY COVERAGE:**

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

**F. HIRED AUTO - LIMITED WORLDWIDE COVERAGE - INDEMNITY BASIS**

The following replaces Subparagraph (5) in Paragraph B.7., Policy Period, Coverage Territory, of SECTION IV - BUSINESS AUTO CONDITIONS:

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or

within such country or jurisdiction, for Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada.

(i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(ii) Neither you nor any other involved "insured" will make any settlement without our consent.

(iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph C., Limit Of Insurance, of SECTION II - LIABILITY COVERAGE.

(v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph C., Limit Of Insurance, of SECTION II - LIABILITY COVERAGE, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

(b) This insurance is excess over any valid and collectible other insurance available

to the "insured" whether primary, excess contingent or on any other basis.

- (c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.

You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

**G. WAIVER OF DEDUCTIBLE – GLASS**

The following is added to Paragraph D., Deductible, of SECTION III – PHYSICAL DAMAGE COVERAGE:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

**H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT**

The following replaces the last sentence of Paragraph A.4.b., Loss Of Use Expenses, of SECTION III – PHYSICAL DAMAGE COVERAGE:

However, the most we will pay for any expenses for loss of use is \$86 per day, to a maximum of \$750 for any one "accident".

**I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT**

The following replaces the first sentence in Paragraph A.4.a., Transportation Expenses, of SECTION III – PHYSICAL DAMAGE COVERAGE:

We will pay up to \$60 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

**J. PERSONAL EFFECTS**

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III – PHYSICAL DAMAGE COVERAGE:

**Personal Effects**

We will pay up to \$400 for "loss" to wearing apparel and other personal effects which are:

- (1) Owned by an "insured"; and
- (2) In or on your covered "auto"

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Effects coverage.

**K. AIRBAGS**

The following is added to Paragraph B.3., Exclusions, of SECTION III – PHYSICAL DAMAGE COVERAGE:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty, and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

**L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS**

The following is added to Paragraph A.2.a., of SECTION IV – BUSINESS AUTO CONDITIONS:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);
- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".

**COMMERCIAL AUTO**

**M. BLANKET WAIVER OF SUBROGATION**

The following replaces Paragraph A.5., Transfer Of Rights Of Recovery Against Others To Us, of SECTION IV - BUSINESS AUTO CONDITIONS:

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

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by

such contract. The waiver applies only to the person or organization designated in such contract.

**N. UNINTENTIONAL ERRORS OR OMISSIONS**

The following is added to Paragraph B.2., Concealment, Misrepresentation, Or Fraud, of SECTION IV - BUSINESS AUTO CONDITIONS:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

INSURED: MCK Services Inc.

POLICY #: DTJUB5E90028716

POLICY PERIOD: 05/20/2016

TO 05/20/2017



WORKERS COMPENSATION ✓  
AND  
EMPLOYERS LIABILITY POLICY ✓

ENDORSEMENT WC 99 03 76 ( A) -

**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.

The additional premium for this endorsement shall be \_\_\_\_\_ % of the California workers' compensation premium.

**Schedule**

**Person or Organization**

**Job Description**

WHERE REQUIRED BY WRITTEN CONTRACT ✓

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

DATE OF ISSUE: - - ST ASSIGN:

Page 1 of 1

**CITY OF ALAMEDA**  
Risk Management  
  
Date 5-25-16  
Lucretia Akil, City Risk Manager