



Summer BBQ - Cuesta Park Saturday, August 15!



Parallax

Newsletter of the Central Coast Chapter of the
California Land Surveyors Association

July 2015
Volume: 19
Issue: 07

JULY 2015 MEETING

Date: Wednesday, July 15, 2015

Where: Margie's Diner
1575 Calle Joaquin, San Luis Obispo

Time: 5:30-6:00 Social Hour 6:00pm Dinner & Meeting

Menu: Order off their Menu [See Menu](#)

Speaker: Ron Nelms
Chair, Monument Conservation Committee, CLSA

RSVP: Central Coast CLSA Central.Coast.CLSA@gmail.com

New Date of Meeting!

ABOUT THE PROGRAM

This month's presentation has been developed to encourage and promote the importance of protecting and perpetuating survey monuments. These monuments are vital to maintaining the integrity and continuity of adjoin properties, neighborhoods, subdivisions, roads, highways, cities, counties, states, and even countries. It is the responsibility surveyors and engineers, governmental agencies,

the construction industry, utility companies and the general public to maintain them. The land surveying community has observed an increase in the mortality rate of these monuments. With their destruction, the potential for conflicts and uncertainty of boundaries arises. Their loss is mainly due to a misunderstanding of their importance. This presentation is a grass roots attempt to explain their relevance and to enlighten as to the merits of monument conservation.

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ABOUT THE SPEAKER

Mr. Nelms began his career in 1980 working as seasonal help for the United States Forest Service cross-sectioning logging roads for timber sales in the mountains east of Oroville, CA. Observing magnificent scenery coupled with problem solving, he decided that this was the profession he wished to pursue. In April of 1992 he and his wife started Nelms Surveying which focused on boundary resolutions, topographic mapping, route surveys, construction staking, land division, and expert testimony.

He is licensed in California, Arizona and Nevada with membership in their respective Land Surveyor Associations. While serving as a Director for the Bakersfield Chapter of the California Land Surveyors Association, he also serves



as the chair for the Monument Conservation Committee. Other duties include serving on the Legislative, Professional Practice, and Education Foundation Committees. In addition, he is also a past president of the North of the River Chamber of Commerce, serves on the Government Review Committee for the Bakersfield Chamber and currently chairs the membership position for the Bakersfield Breakfast Rotary.

MEALS ON WHEELS - ALASKA



Submitted by Robert Reese - As most of you could probably guess

2015

Central Coast Chapter

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BOB HART (1950-2015)



Bob was born Jan. 4, 1950 in Washington DC to Robert and Roystine Hart. He was the last of four children and the only boy. As a young child the family moved to Chattanooga Tenn. They were the first Baha'i family to live in this city. The family moved to Riverside Calif when he was 7 where he grew up.

He graduated from Ramona High School in 1968 and attended Riverside Community College. In 1969 he was drafted into the United States Army where he served as a medic in Korea.

After being released from the Army the family moved to Maryland. There Bob and Rose, child-

hood friends, were married on July 2, 1972. After several years they moved back to Riverside and had two children, Rob and Lisa.

Bob took engineering classes and became a Professional Land Surveyor. He worked in this field for the rest of his working career. He worked for several Engineering companies including LA Wainscott of Redlands and Stoddard and Associates of Los Banos. Bob was active in the California Land Surveyors Association and served as its president from 2004 to 2005, often having to travel to Sacramento to work on legislation.

Bob was a member of the Baha'i Faith and lived his life working for the oneness of humanity. He believed in the elimination of racism, the equality of women and men, that all religions are from God, and honored those of every faith as his brothers.

Bob volunteered with Habitat for Humanity in Los Banos and helped in construction and fund-


raising.

After a long search for the cause of his continuing symptoms Bob was diagnosed with early onset Alzheimer's at the age of 58. In many ways the diagnosis was a comfort, being able to put a name to a condition that was perplexing to say the least. He took it in stride and decided that, "it is what it is." He adjusted his life and continued to make whatever contributions he could, always letting his family know what they "should" be doing to solve whatever was the problem of the day. It is a tribute to his resilience that he was able to live at home until the last few months of his life when he required more care.

Bob is survived by his wife of 43 years Rose, his son Rob and wife Liz of Los Banos, his daughter Lisa Scoggin and her husband Rob of Ontario and his three grandchildren, Crystal, Nancy and Ellie, a fourth grandchild, a grandson, who will be born in September, his sisters, Nancy Robertson Of Riverside, Dana Cooke of Laurel, Md. and Judy of Riverside.

MARTIN "MARTY" LABUDA (- 2015)

Martin Labuda Martin "Marty" Joseph Labuda, passed away peacefully June 10, 2015, at home surrounded by his loving wife, Christine and caretaker, Tina. Marty is survived by his loving wife of 25 years, Christine Labuda; daughter, Kasey Phillips (Scott); caregiver, Tina Coffman, and extended family members and friends. Family and friends are invited to a vigil on Thursday, June 18, at 7:00pm at Nativity of Our Lady Catholic Church with a Funeral Mass to follow on Friday, June 19, 2015, at Nativity of Our Lady Catholic Church at 11:00am, followed by a committal service at Los Osos Valley Memorial Park and Mortuary. Sign his guestbook at sanluisobispo.com/obituaries



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PRESIDENT'S MESSAGE

from Jonathan Walsh



Hello all, I hope everyone is enjoying the summer. I am sure, before you know it the Mid-State Fair will be here! Right after the fair will be our annual summer CCC CLSA BBQ. I have been involved in the BBQ for several years now it is something we all look forward to. It is about this time that I start to gather donations for the door prize/raffle. I have to be honest with you; it is getting tough to continue to ask people/businesses to donate to our cause. I have about worn out my welcome some places. Therefore, I am hoping you all will help me out! We donate the proceeds to "Surveying Education", and through the years, we have made some real progress. I know it is not an easy task to ask people to donate, but when you do, it is amazing what can happen. By

the way, I travel for work now and then, I always ask the hotel people for an upgrade, and most times, I get it, just for the asking. Now I do the same when traveling for fun and it still works. My point is most people do not ask for things. Take a step out of your comfort zone and ask, I promise you will be surprised as to what you may end up with, just for asking.

While you are basking in the summer sun, hopefully for fun and not work, take some time and ask yourself what can you do for the Chapter? What can I do to continue to make the Central Coast Chapter of the California Land Surveyors Association the best Chapter in the state (I have given us that title, by the way), I have the answer for one and all, right here, right now. You can volunteer to become an officer! You can volunteer to be on a committee! You can write an article! There are several things one can do, if they want to be involved. Throughout this year as Chapter President, I have heard from several people. I have received phone calls, emails and inquires about one thing or another. I am glad people feel free to contact me; I am *your*

President, representing *you*.

We have a change for the upcoming July meeting. It will still be our first July meeting; it is still going to be a Monument Preservation Meeting, presented by Ron Nelms PLS. The change is for this meeting we will not specifically invite those from Public Agencies. There are a few reasons why, Ron wanted to present to us first. The PPC, Professional Practices Committee, is heading up this meeting and they decided they were not prepared with a list of invitees that were going to be useful and would actually get something out of this very special meeting. Therefore, we will have the meeting, hopefully with a great turnout! Come on over to Margie's Diner in San Luis Obispo on July 15 at 6:00 pm. I know it will be very informative and educational, and just a good time. We do plan to invite people from local agencies, most likely to our November meeting. This will give us plenty of time to plan and invite the right people. Any suggestions here will be welcome.

OK that will end this month's message, Thank you one and all.



ROBERT J. REESE
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**Mark your Calander
CLSA Summer Barbecue
Cuesta Park, SLO
Saturday August 15**

ONE BUILDING PRODUCED MORE LAND SURVEYORS THAN ANY OTHER

By: Jonathan Walsh

A few years ago an old Army buddy, called me up and asked if I wanted to go watch his son graduate from Basic Training (this is my friend that donates the jewelry to the BBQ, Crislu). I had to think long and hard about this one. I had hoped that I would never see Fort Sill, Oklahoma again! Jeff asked me because he knew that was where I went to Army Basic Training and A.I.T. (Advanced Individual Training). We were stationed in Germany together and are lifelong friends. He also asked because he needed someone to keep his ex-wife, the mother to his son, company as he was bringing his new wife. Once we arrived, we were limited to what we could do as his son was still restricted to what he could do. So, we toured around base and did what we could. It was a nicer place than I had remembered. They were remodeling the actual building I lived in during Basic Training and A.I.T. Jeff's son was in a building just like mine and right next door. It was the same barracks that used in the Pauly Shore movie 'In the Army Now'. Man, what memories...

Driving around post was a real flashback. I spent three years in the Army at three different posts. We finished lunch and were driving back when I saw it. I had not recognized where we were until I saw the name on the building. I-SEE-O HALL. What the heck is an I-SEE-O? I vaguely remember going through a museum or two back in 1983, but I still do not remember what I-SEE-O was. I did some internet research and found out that I-SEE-O is not a what; I-SEE-O is a who!

Sergeant I-SEE-O, was a famous Native American and a Kiowa Indian Scout. What made him famous was his skill as a negotiator, he was a peacemaker. He would get the Chiefs together to try to form agreements that meant peace among the different tribes and nations. The U.S. Army gave him a home, food and

a salary for life. This was and is still today the only Veteran offered such a benefit for life. They say I-See-O was given a perfectly good home on Ft. Sill, but he chose to sleep in the tepee he erected in the yard of that home. As he grew older, he did move into the modern home.

He was honored by the U.S. Army in various ways including naming a building after him. This was not just any building, it is where I and many others before me and not as many after me went through A.I.T.

Sergeant I-SEE-O, was a famous Native American and a Kiowa Indian Scout. What made him famous was his skill as a negotiator, he was a peacemaker. He would get the Chiefs together to try to form agreements that meant peace among the different tribes and nations.

It was the United States Army Field Artillery Surveyors School. 82C was my Military Occupation Specialty,(M.O.S.) *I would bet money that there is not one building in the world that has produced more Land Surveyors than I-SEE-O Hall has.* We all know a Surveyor or two that was in the Army, if he or she was a Field Artillery Surveyor, they went through I-SEE-O Hall too. If someone was in the Marines at this time, and a Field Artillery Surveyor, they went through Ft. Sill and I-SEE-O HALL too. I did not go through A.I.T. with any female personnel, but when I got to my first duty station

in Germany, there were three women in the Survey Platoon. That job title and M.O.S. do not exist anymore with the use of GPS. Most vehicles have GPS on board now and do not require Survey information. The few times we actually did our jobs on field exercises was actually fun, but again, there was no war going on. Our main objective was to provide the Artillery Unit Commander with two points and an azimuth between the points. From there, the guns were orientated by the Fire Control Officer and a fire mission is executed. By this time, the Survey Platoon is long gone.

I joined in 1982; it was a different world then. There really was no reason to think I was joining to go to war. I would have if I had to but that was honestly not my reason of joining when I did. During my three-year enlistment the biggest things in the world that affected

Continued on Page 7

EDITOR'S CORNER

by: Tom Mastin



First, I want to apologize for my mistake on the date of July's meeting in the last issue. However, those few of you that have read me over the years know that it wasn't my first mistake, and certainly won't be my last. I hope I did not cause too much confusion with that.

Last month we had a memorial for Fred Schott, who as many of you know was a fairly regular attendee at our meetings. In many ways Fred was one of those bigger than life personalities. When I first met him many years ago, he clearly intimidated me, with a booming voice that clearly wasn't happy with what was being discussed (I was just listening to the conversation, luckily). However, next time I met him he was very curious about my background in surveying and urging me on into the profession. Over the years I had a number of conversations with Fred, most of them very pleasant, but some of them serious debates on issues, where we clearly disagreed. It always ended friendly, and I always felt that even though Fred knew I was wrong, he didn't think any less of me.

This month we have a memorial on first, Marty Labuda. Marty worked for a number of survey firms back in the 1980's maybe even

into the 1990's. Then he started his stake supply company, which many of the firms used for years. I really got to know Marty best back in the early 1990's. He was the first publisher of "Parallax". I was the editor and Marty put the newsletter together, using Publisher software, then had them printed out and mailed. His payment back in those days, was all the copies of Parallax that didn't get mailed out. I have worked on a few newsletters over the years, and quickly learned that it is better to be the "editor" than the "publisher". As the editor, you just take what you have and give it to the publisher, whereas the publisher has to take all the material, format it so it all fits and then get it printed and sent out. When a publication is late, it is always the publisher's fault, no matter how late they get material. That was very true in the first days of Parallax, where I would get to Marty everything just a week before the meeting, usually by dropping it by his house in the evening. He would then work on it all evening and get it to the printers in the morning. Then pick it up, fold it and send it out through bulk mail. It was really a job and he did it for two years without complaint (At least to my face). He was always a very positive person. The only reason he stopped is he had some health issues back then. When I say his obituary, I realized I had not seen him for years, and regretted that.

We also have a memorial on Robert Hart. Bob lived in Los Banos for years but he and his wife,

Rose after Bob had been diagnosed with Alzheimers. Bob and his wife attended some of our chapter meetings after they moved here. Bob was really a force at the state level of CLSA. Although there a number of our chapter members that knew Bob better than I; I had a number of dealings with Bob over the years on various committees. Bob was one of those very likeable guys. Beyond that what I learned was he was very disciplined in that he always followed up to make sure people were doing what they were supposed to be doing and if not offered them help to get the task done. Bob could be quite a talker, but I was always impressed in meetings as to how well he kept things on track. He would let people say what they want, but always got the focus returned to the task at hand. That is really a skill that few have. I think the State Association and our profession were lucky to have someone like Bob represent us over the years.

In some ways this column was not pleasant to write, but in other ways it is nice to think about Fred, Marty and Bob and the interactions and impact they had on me over the years. I have gotten to that age where I realize that I, along with everyone else, will not live forever. Our lives are comprised of countless interactions with thousands of people. Some of those people are close to us are major influences, but more are friends and acquaintances that still impact our lives. These three for me were all positive impacts and for that I am grateful to them.

ONE BUILDING PRODUCED MORE LAND SURVEYORS THAN ANY OTHER *from page 5*

the United States was the bombing of the Marine Corps barracks in 1983, in Beirut, Lebanon. The other was our invasion of Grenada, two days later. I spent eighteen months in Germany, which was still the Federal Republic of Germany, as the wall had not fallen yet. I was picked Solider of the Month and was awarded the opportunity to attend the Berlin Orientation Tour. This was a special tour that spent 4 days touring Berlin, including an eight-hour trip to East Germany. It was one of the highlights of my Military career.



Artillery Bases on the west coast to keep me closer to home. While in Germany my mother got quite ill and almost died. I was sent home on emergency leave. I wanted to be as close to home as Uncle Sam would allow me, so naturally they sent me to Ft. Hood, Texas. I finished my last year there, chiggers and all. When I got out, I came home to sunny Southern California, in Anaheim. In two weeks, I had a job as a Chainman. I was hired by a non-union ex Military Surveyor; he was an 82C in Vietnam. Pretty much from then on, I never looked back. I blame all my success on the lessons I learned on the wrestling mat in High School.

When you get to within six months of leaving Germany, you are given a dream sheet. It asks you to list the three places you would like to be stationed when you go back to America. So being from California, I put Ft. Ord in Monterey, Ft. Carson, in Colorado and Ft. Lewis in Washington. These were three large

I am not sure about the most Land Surveyors from one building, but they graduated a class a week, with 15-30 people per class, for many many years.

**Central Coast Chapter
CALIFORNIA LAND SURVEYORS ASSOCIATION
2015 Membership Form**

Name: _____

Email Address¹: _____

Company/Agency: _____ Primary Contact²

Phone: _____

Are you: LS LSIT RCE Other

State CLSA: Life Corporate Affiliate Student Associate None

1. This is where Parallax and all other chapter correspondence is to be sent
2. Check if you should be the primary contact for the company or agency

Chapter Dues \$20.00 per Person (Yearly Dues)

Please Make Check payable to: **Central Coast Chapter CLSA**

Send Payments to : David Karp
543 Andrea Cir.
Paso Robles, CA 93446

I am also contributing \$ _____ for Scholarship Fund

I am also contributing \$ _____ for Trig-Star Fund



CENTRAL COAST CHAPTER
of the
CALIFORNIA LAND SURVEYORS ASSOCIATION

Email: central.coast.clsa@gmail.com

MINUTES

CENTRAL COAST CHAPTER CLSA MEETING held on **May 27, 2015** at **6:00 PM** at **Madonna Inn, San Luis Obispo, CA**

CALL TO ORDER 6:04 PM

PLEDGE OF ALLEGIANCE

ROLL CALL/INTRODUCTIONS

Jonathan Walsh, President
Cristi Fry, Vice President
David Karp, Secretary/Treasurer
George Marchenko, Immediate Past President
Ian McClain - State CLSA Board Director
Linda Richardson - State CLSA Board Director

30 in attendance at the meeting, including the speaker and guests.

APPROVAL OF MINUTES

MOTION by **Cristi Fry** and **SECONDED** by **Ian McClain** to approve the April 22, 2015 Chapter Meeting Minutes as published in the May Parallax.

MOTION CARRIED

PRESIDENT'S REPORT

President Jonathan Walsh reported: They currently have some PPC issues they are working on.

VICE PRESIDENT'S REPORT

Vice President Cristi Fry reported she was putting together the July 15th meeting and the speaker will be Ron Nelms and he will be speaking on monument preservation. We will be inviting the public works directors for the meeting and any other public officers that will want to learn about monument preservation. We will be paying for the dinners for the invited and their guests.

SECRETARY/TREASURER'S REPORT

Secretary/Treasurer David Karp reported the current Chapter checking account balance is **\$9,944.93** Except for our guests, cost for dinner tonight is \$35, make checks payable to CCCCLSA, and to pay the CLSA dues.



CENTRAL COAST CHAPTER
of the
CALIFORNIA LAND SURVEYORS ASSOCIATION

Email: central.coast.clsa@gmail.com

DIRECTOR'S REPORT

Director Ian McClain reported: His report from the last Board of Directors meeting was published in the May copy of the *Parallax*.

MOTION by **Jonathan Walsh** and **SECONDED** by **David Karp** to approve any counter legislation from the CLSA for the SB854 Law.

MOTION CARRIED

EDUCATION COMMITTEE

Tom Mastin had nothing to report.

WORKSHOP COMMITTEE REPORT

Jesse Brady reported, was not present, but emailed his report:

Do we still want to have Allen Instruments do *Datumate* demo. Think we missed the summer schedule window. Thinking mid-September want to know if a weekday afternoon or Saturday is preferred by the chapter. END Report.

11 people were in support of following up with Allen instruments to have the demo put on for us, but agreed that we will not pay for the meeting due to the nature of it being a sales meeting.

TRIGSTAR COMMITTEE REPORT

George Marchenko reported that he will be handing out awards tonight.

PROGRAM

George Marchenko and the TrigStar Awards

OLD BUSINESS

President Jonathan Walsh called for any old business:

MOTION by **Ian McClain**, **SECONDED** by **George Marchenko**: CCC chapter approve the letter addressed to the City of Grover Beach regarding Monument Conservation prepared by Bill Dyer, Paul Karp and Robert Reese as written; Direct President Walsh to send it to the city and publish in the *Parallax*; direct the Professional Practice Committee to assist the City should they request it.

MOTION CARRIED

EQUIPMENT DONATION REVIEW COMMITTEE



CENTRAL COAST CHAPTER
of the
CALIFORNIA LAND SURVEYORS ASSOCIATION

Email: central.coast.clsa@gmail.com

Nothing to report

NEW BUSINESS

President Jonathan Walsh called for any new business:

MOTION by **Robert Reese** and **SECONDED** by **Cristi Fry** to approve sending flowers and a card on behalf of the Chapter to Fred Schott's widow.

MOTION CARRIED

Joann Head volunteered to be on the Pavement Rehab Committee

ANNOUNCEMENTS

Next meeting July 22nd, at the T.B.A, speaker will be Ron Nelms,

ADJOURNMENT

President Jonathan Walsh adjourned the meeting at 8:25 pm.

Respectfully submitted,

David Karp, PLS
2015 Secretary/Treasurer
Central Coast Chapter of the California Land Surveyors Association



**California Land Surveyors Association
Central Coast Chapter
2015 2nd Quarterly Board of Directors
Meeting Agenda**

The CLSA Board of Directors is scheduled to meet in Oakland on July 25th. Items of interest to the Central Coast Chapter included the following:

- The Policies and Procedures Ad-Hoc Committee has proposed: changes to the CLSA standard contract; a whistle blower policy; an anti-trust agreement; a chapter affiliation agreement; and a calendar event policy. See attached.

Meeting minutes from the April 25 Board of Directors meeting are available upon request.

Respectfully submitted,
Linda Richardson
George Marchenko
Ian McClain

California Land Surveyors Association

526 So. E Street, Santa Rosa, CA 95404
Telephone: 707.578.6016 FAX: 707.578.4406

POLICY AND PROCEDURE AD HOC COMMITTEE REPORT

Committee Members: Keith Spencer, Chairman; Bill Hofferber, Rich James, Paul Lamoreaux, Ron Nelms, Rolland VanDeValk, Ian Wilson, members; and Dorothy Calegari and Jay Seymour, Ex-officio members.

COMMITTEE CHARGES & RECOMMENDATIONS

STANDARD CONTRACT – PAGE 3

- Charge:** The CLSA Standard Contract was referred to the Policy & Procedure Committee to address the statutory requirements in Section 8759(a)(5).
“(5) A description of the procedure to be used by **any party** to terminate the contract.”
- Recommendation:** The Policy & Procedure Committee reviewed and drafted proposed changes to Section 9 (Attached), as directed by the Board. Following the Committee telephone conference call, the Committee received two (2) additional proposed changes to the standard contract form. The Committee recommends the Board direct the Committee to review these additional proposed changes (Attached) and report back to the Board at their November meeting.

WHISTLEBLOWER POLICY – PAGE 8

- Charge:** The Whistleblower Policy was referred to the Policy & Procedure Committee for review and recommendation.
- Recommendation:** The Policy & Procedure Committee recommends adoption of the attached Whistleblower Policy.

ANTITRUST DOCUMENT – PAGE 10

- Charge:** Referred to the Policy and Procedure Committee.
- Recommendation:** The Policy & Procedure Committee recommends adoption of the attached Antitrust Statement, Policy, and Guidelines.

CHAPTER AFFILIATION AGREEMENT – PAGE 14

- Charge:** Referred to the Policy and Procedure Committee.
- Recommendation:** The Policy & Procedure Committee recommends adoption of the attached Chapter

Affiliation Agreement.

EVENT CALENDAR POLICY

Charge: The Policy & Procedure Committee to review existing policy unwritten/or written and any board decisions regarding cross promotion of land surveying events and organizations through email and event calendar and to bring a recommendation to the Board to pass a definitive policy that supports CLSA's mission to promote and enhance the profession of surveying and elevate the public's understanding of our profession.

Recommendation: The Policy & Procedure Committee recommends adoption of the following CLSA Event Calendar Policy:

“Posting on the CLSA Event Calendar shall be limited to CLSA state and local chapter events, college & university survey program events, and events of organizations of which CLSA is an Affiliate member.”

COMMITTEE MOTION: The Policy and Procedure Committee has reviewed the charges sent to this Committee for review and recommendation. The Board of Directors hereby approves the recommendations of the Policy and Procedure Committee as outline in their report to the Board of Directors.

Attached:

- Agreement for Professional Services (CLSA Standard Contract Form)
- Additional Proposed Changes to the CLSA Standard Contract Form (separate attachments)
- CLSA Whistleblower Protection Policy
- Antitrust Statement, Compliance, Policy, and Guidelines
- Chapter Affiliation Agreement

This form is provided as a membership service by:

Agreement for Professional Services Between Client and Consultant



Project No: _____

THIS AGREEMENT is made and entered into at _____

effective this _____ day of _____, _____, by and between:

CONSULTANT: License/Registration No. _____

CLIENT:

Name _____

Name _____

Address _____

Address _____

Telephone No. (_____) _____

Telephone No. (_____) _____

The property upon which the services hereinafter described are to be performed is located at _____

Assessors Parcel No. _____ ("the Property").

A. CLIENT AND CONSULTANT AGREE AS FOLLOWS:

Client agrees to engage Consultant according to the terms of this agreement ("the Agreement").

1. Consultant agrees to perform the services set forth on Exhibit "A" attached hereto and incorporated herein by this reference ("Services").

2. Client agrees to compensate Consultant for its Services according to the schedule of payments attached hereto as Exhibit "B" and incorporated herein by this reference ("Schedule"). Consultant reserves the right to increase the fees set forth in Exhibit "B" at reasonable intervals.

3. Client agrees to provide Consultant with any and all documents necessary to identify the ownership, location and condition of the Property, including, but not limited to, deeds, maps, title information, and permits; and to obtain for Consultant the authorization of the owner to enter upon the Property for the purpose of conducting Consultant's Services thereon.

B. GENERAL PROVISIONS

Client and Consultant agree that the following provisions shall be part of this Agreement:

1. **Ownership of Work Product.** Client acknowledges that all original papers, documents, maps, surveys, and other work product of Consultant, and copies thereof, produced by Consultant pursuant to this Agreement,

except documents which are required to be filed with public agencies, shall remain the property of Consultant. Consultant shall have the unrestricted right to use any such work product, for any purpose whatsoever, without the consent of Client. Client further acknowledges that its right to utilize the Services and work product performed pursuant to this Agreement will continue only so long as Client is not in default pursuant to the terms and conditions of this Agreement and Client has performed all obligations under this Agreement.

2. **Use of Work Product.** Client agrees not to use or permit any other person to use final maps, exhibits, legal descriptions, surveys, or other work product ("Work Product") prepared by Consultant, which Work Product is not final and which is not signed, and stamped or sealed by Consultant. Client agrees that Consultant is not responsible for any such use of non-final Work Product and waives any right to claim liability against Consultant therefor.

Client further agrees that final Work Product is for the sole use of Client for the specific purpose described in this Agreement. Such final Work Product may not be altered or reproduced in any way nor used on any other project or for any other purposes than as specifically authorized by Consultant in writing prior to any such use, alteration, or reproduction.

3. **Changes in Work Product.** In the event the Client agrees to permit or authorizes changes in the documents prepared by Consultant pursuant to this Agreement, to which changes Consultant has not previously

consented to in writing, Client acknowledges that such changes and the effects thereof are not the responsibility of Consultant and Client agrees that Consultant is automatically released from any and all liability arising therefrom and further agrees to defend, indemnify and hold harmless Consultant, its officers, directors, principals, agents and employees from and against all claims, demands, damages or costs arising therefrom unless caused by the sole negligence or willful misconduct of Consultant.

4. **Copyright.** All Work Product identified in this Agreement as within the scope of Services of Consultant, shall be deemed protected as if such Work Product was within the protections against third-party use and disclosure of the general copyright law of the United States as well as California, including common law and statutory law, whether or not such Work Product actually is so copyrighted and without regard to whether or not such copyright law actually applies to such Work Product.

5. **Billing.** All fees and other charges attributable to this Agreement will be billed by Consultant monthly and shall be due and payable by Client at the time of billing unless otherwise specified in this Agreement. Client agrees that all billings from Consultant to Client are correct, conclusive, and binding on Client unless Client, within ten (10) days from the date of such billing, notifies Consultant in writing of its objection stating the alleged inaccuracies, discrepancies, or errors in the billing. In the event Client so notifies Consultant of such objection, Client shall nevertheless pay the billed amount and address such objection thereafter.

6. **Payment By Others.** If payment for Consultant's Services is to be made on behalf of Client by a third-party, including a lender, Client agrees that Consultant shall not be required to indemnify the third-party in the form of any endorsement or otherwise, as a condition to Consultant's right to receive payment for Services. This Agreement shall not be conditioned upon financing. Client represents that it has adequate funds for the payment of Consultant's fees, and the validity of this Agreement is not dependent upon Client obtaining financing, or on any other condition.

7. **Late Charges.** In the event Client fails to make payments under this Agreement, it would be difficult to fix the damages suffered by Consultant because of varying rates of interest and inflation and because late payment impairs capital and business operations. The parties therefore agree that a charge of 1.5 percent per month will be assessed on all overdue balances. This rate represents a reasonable estimate of fair compensation for the foreseeable losses that might result from late payment.

8. **Suspension or Termination of Agreement.** In addition to any and all rights of Consultant under this Agreement or otherwise for default of Client, Consultant shall have the right to suspend or terminate this Agreement upon the occurrence of any of the following events:

- (a) Death of Client,
- (b) Change in fifty percent (50%) or more in the ownership of Client,
- (c) Any material breach by Client of any provision of this Agreement, including the failure to make any payment when due, if such material breach remains uncured for more than twenty days following written notice to Client describing the nature of the breach and demand for cure.

Consultant may exercise the right of suspension or termination as provided herein by the delivery of written notice to Client informing Client of the suspension or termination, the effective date of such termination or suspension, and reason for same. Any written notice required under this Agreement shall be deemed to have been delivered to Client three days after the deposit of said notice in the U.S. Mail, first class postage prepaid, addressed to the Client at the address appearing at the outset of this Agreement, unless Client has previously provided Consultant with written notice of a change of address.

9. **Early Termination Release.** If the Client is unwilling or unable to proceed with the Project, the Client may suspend or terminate this Agreement by the delivery of written notice to Consultant information Consultant of the suspension or termination the effective date of such termination or suspension, and reason for same. Upon receipt of such Notice, the Consultant will perform no further Services other than those

reasonably necessary to suspend or terminate that portion of the Project for which the Consultant is responsible. In such event, the Client will pay all of the Fees and Reimbursable Expenses incurred by the Consultant up to the date of suspension or termination, plus the Suspension Expenses or Termination Expenses, cost of providing statutorily required documentation and associated fees, as the case may be, in the manner provided for in this Agreement. Should statutorily required documents be necessary due to the nature of the project of termination of the project, Client agrees to pay for costs of preparation and any associated fees to file said documents

10. **ALTA Surveys.** Client agrees that in performing requested ALTA surveys in accordance with this Agreement, Consultant may be required to sign a statement on the survey documents in a form set forth in Exhibit 1 attached hereto and incorporated herein by this reference. In the event that Consultant is required to sign a statement or certificate which differs from that contained in Exhibit 1, Client hereby agrees to indemnify and hold Consultant harmless from any and all liability arising from or resulting from the signing of any such different statement.

Ian Wilson's Comment: Paragraph 10, on ALTA Surveys is a bit out of touch with the 2011 standards. This will not change with the new standards coming next year, either.

11. **Government Changes.** If Consultant, pursuant to this Agreement, produces Work Product and/or performs field services, and such Work Product and/or field services is/are required by one or more governmental agencies, and such governmental agency changes its ordinances, policies, procedures or requirement after the date of this Agreement, any additional office or field services thereby required shall be paid for by Client as extra services.

12. **Changed Conditions.** In the event Client discovers or becomes aware of changed field or other conditions which necessitate clarification, adjustments, modifications or other changes, Client agrees to notify Consultant and engage Consultant to prepare the necessary clarifications, adjustments, modifications or other changes to Consultant's Services before further activity proceeds. Further, Client agrees that any construction contracts for any project which involves Consultant's Work Product shall include a provision that requires the contractor to notify Client of any changed field or other conditions after which Client shall timely notify Consultant.

13. **Additional Services.** Client acknowledges that the Services described in Exhibit "A" are based upon field and other conditions existing at the time of the execution of this Agreement. Client further acknowledges that clarifications, adjustments, modifications and other changes may be necessary to reflect changed field or other conditions. If Consultant determines that changed field or other conditions reasonably require or otherwise justify the provision of services in addition to those specified in this Agreement (such services to be referred to hereafter as "Additional Services"), Consultant shall by whatever means Consultant deems reasonable under the circumstances attempt to notify Client of the nature of such changed field or other conditions and the need for Additional Services. Regardless if Consultant successfully notifies Client of the changed field or other conditions and the need for Additional Services, Client authorizes Consultant to provide the Additional Services and agrees to pay for same at the rates set forth on Exhibit B attached hereto and incorporated herein by this reference. Any such Additional Services shall be performed subject to the terms and conditions of this Agreement as if specifically provided for herein.

14. **Locating, Referencing or Resetting Monuments.** In the event Consultant is required to locate, reference, or reset any monument in order to comply with section 8771 of the Business and Professions Code, or any other statute, rule, ordinance, or directive, the cost shall be paid by Client as extra services. In addition, Client shall pay all costs incurred in the preparation of documents related to locating, referencing or resetting monuments.

15. **Restaking.** In the event that Consultant's staking is destroyed, damaged or disturbed by an act of God or parties other than Consultant, the cost of restaking shall be paid for by Client as Additional Services.

16. Payment of Costs. Client shall pay the costs of checking and inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial topography fees, and all other fees, permits, bond premiums, title company charges, blueprints and reproductions, and all other charges not specifically covered by the terms of this Agreement. In the event all or any portion of the Services are suspended, and restarted, Client agrees to pay Consultant on demand, as extra service, any additional expense or services required by Consultant as a result of suspension of the Services.

17. Records of Survey. Client acknowledges and agrees that if Consultant provides surveying services, which require the filing of a Record of Survey in accordance with Business and Professions Code Section 8762, all costs of preparation, examination and filing of such Record of Survey will be paid for by Client as extra services.

18. Governmental Actions. Consultant shall not be liable for damages resulting from the actions or inactions of governmental agencies including, but not limited to, permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, project or plan approvals, and building permits.

19. Performance of Others. Client acknowledges that Consultant is not responsible for the performance of services by third parties including, but not limited to, engineers, architects, contractors, subcontractors, or suppliers.

20. Delays. Consultant is not responsible for delay caused by activities or factors beyond Consultant's control including, but not limited to, delays caused by strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of Client to timely furnish information or approve or disapprove Consultant's work, faulty performance by Client or others, including contractors and governmental agencies. In the event such delays occur, Client agrees to save and hold Consultant harmless therefor.

21. Bankruptcy. Consultant shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations under this Agreement if Consultant receives notice that Client has filed a voluntary petition for Bankruptcy or if an involuntary Bankruptcy petition is filed against Client, and such petition is not dismissed within fifteen (15) days of its filing. Any suspension of Services made pursuant to the provisions of this paragraph shall continue until such time as this Agreement has been fully and properly assumed in accordance with the applicable provisions of the United States Bankruptcy Code and in compliance with the final order or judgment issued by the Bankruptcy Court.

22. Lien Rights. This Agreement shall not be construed to alter, affect or waive any lien or stop notice right or other remedy, which Consultant may have for the performance of Services pursuant to this Agreement. Client agrees to separately provide to Consultant the present name and address of the record owner of the Property on which Consultant is to perform its Services. Client also agrees to separately provide Consultant with the name and address of any and all persons, including lenders, who are entitled to receive a preliminary notice.

23. Hold Harmless. Client agrees to be solely and completely responsible for job-site conditions during the course of Consultant's performance, including safety of all persons and property; that this requirement shall apply continuously and not be limited to normal working hours; and Client further agrees to defend, indemnify and hold Consultant harmless from any and all liability, real or alleged, in connection therewith, except liability arising from the sole negligence or willful misconduct of Consultant.

24. Insurance. Client agrees to purchase and maintain, at no cost to Consultant, during the course of Consultant's Services under this Agreement, the following insurance coverages: (1) a broad form "all risk" policy of insurance with course of construction, vandalism, and malicious mischief clauses attached, (2) workman's compensation insurance where applicable, and (3) insurance against injuries to persons under Client's direction and persons on the job-site at Client's invitation. Said insurance

shall be obtained in such amounts and with such insurers as are acceptable to Consultant. Consultant shall be named as an additional insured under each policy. Should Client fail to obtain said insurance, Consultant may procure same as agent for and at the expense of Client, but is not required to do so.

25. Liability Limits. Client agrees that Consultant's total liability to Client, its agents, employees, contractors, subcontractors, successors and assigns, for professional negligence, acts, errors or omissions of Consultant, shall be limited to \$50,000 or Consultant's fees, whichever is greater.

26. Estimates. Estimates of areas provided under this Agreement are not to be considered precise unless Consultant specifically agrees in writing to provide the precise determination of such areas.

27. No Representations. Consultant makes no representation concerning any estimated quantities or calculated areas or costs made in connection with maps, documents or other Work Product other than that all such calculations and estimates are estimates only and Consultant shall not be responsible for fluctuations therein. It is the responsibility of Client to verify these matters.

28. Non-Responsibility for Job-Site Conditions. Consultant assumes no responsibility for job-site conditions during the course of construction on the project, including safety of persons and property.

29. No Warranties. Consultant makes no warranty, either express or implied, as to its findings, recommendations, or professional advice except that the service was performed pursuant to generally accepted standards of practice in effect at the time of performance.

30. Nonliability for Hazardous Materials. Client acknowledges that Consultant's scope of Services for this project does not include any services related, in any way, to asbestos and/or hazardous or toxic materials. Should Consultant or any other party encounter such materials on the job-site or should it in any other way become known that such materials are present or may be present on the job-site or any adjacent or nearby areas which may affect Consultant's Services, Consultant may, at its option, terminate work on the project until such time as Client retains a specialist contractor to abate and/or remove the asbestos and/or hazardous or toxic materials and warrants that the job-site is free from any hazard which may result from the existence of such materials.

Client further agrees to defend, indemnify and hold harmless Consultant, its officers, directors, principals, employees and agents from any asbestos and/or hazardous or toxic material related claims that may be brought by third parties as a result of the Services provided by Consultant pursuant to this Agreement except claims caused by the sole negligence or willful misconduct of Consultant.

31. Cooperation. Client and Consultant agree to cooperate with each other in every way in the performance of this Agreement.

32. Waiver. Waiver by Consultant of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any other term, condition, or covenant, or the breach of any other term, condition, or covenant and any such waiver shall not constitute a continuing waiver thereof.

33. Other and Further Performance. Upon written request, Client shall timely execute and deliver, or cause to be executed and delivered, such additional instruments, documents, and pay any governmental fees and charges necessary to this Agreement.

34. Advisory Only. Consultant shall only act in an advisory capacity to Client in governmental relations. Client shall be responsible for all decision-making activities therein.

35. Validity. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall be valid and binding on Client and Consultant.

36. **Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

37. **Arbitration of Disputes.** Any dispute arising out of or related to this Agreement shall be resolved by binding arbitration and not in a court of law. The dispute will be settled in accordance with the Rules of the American Arbitration Association, and judgment will be entered on the award. The arbitrator will award attorneys' fees to the prevailing party. If a party after due notice fails to appear at and participate in the proceedings, the arbitrator will make an award based on the evidence presented by the party who does participate.

38. **Venue.** In the event either party institutes any proceeding to enforce or interpret the provisions of this Agreement, such proceeding shall be brought and adjudicated in the county in which Consultant's principal place of business is located, and Client waives the right to bring, try or remove such action to any other county or judicial district.

39. **Attorneys' Fees.** If any proceeding is brought to enforce or interpret the provisions of this Agreement, the prevailing party therein shall be entitled to receive from the losing party therein, its reasonable attorneys' fees, which fees shall be set in the same proceeding, in addition to any other relief to which it may be entitled.

40. **Costs of Dispute Resolution.** In the event that Client institutes a proceeding against Consultant, either directly or by way of cross-complaint, including a claim for indemnity, for alleged negligence, error, omission, or other failure to perform, wherein: (a) Client fails to obtain a judgment or award in Client's favor, (b) the action is dismissed, or (c) judgment or award is rendered for Consultant, Client agrees to pay Consultant immediately following the proceedings all costs of defense, including, but without limitation, reasonable attorneys' fees, expert witness fees, court costs, and any and all other expenses of defense.

41. **Assignment.** This Agreement shall not be assigned by either Client or Consultant without the prior written consent of the other.

42. **Inurement.** This Agreement shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of Client and Consultant.

43. **Entire Agreement.** This Agreement contains the entire agreement between Client and Consultant relating to the project and the provision of Services to the project. Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force or effect. Subsequent modifications to this Agreement shall be in writing and signed by both Client and Consultant.

44. **Acceptance and Commencement.** By execution of this Agreement Client accepts the terms hereof, acknowledges receipt of a copy hereof, including all exhibits, and authorizes Consultant to proceed with the Services. In the event Client is not the owner of the Property, Client represents that Client has obtained permission from said owner for Consultant to proceed.

IN WITNESS WHEREOF, the parties hereby execute this Agreement upon the terms and conditions stated above and on the date first above written.

CONSULTANT:

By _____

Title _____

Exhibit "A" attached: _____
Client's Initials

Exhibit "B" attached: _____
Client's Initials

Exhibit "1" attached: _____
Client's Initials

CLIENT:

By _____

Title _____

CLSA Whistleblower Protection Policy (Draft)

The California Land Surveyors Association, hereinafter CLSA, requires directors, officers, committee members, liaisons and volunteers to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As representatives of the CLSA, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations. While there is no legal responsibility requiring CLSA to have a Whistleblower Protection Policy in effect, the implementation of such a policy will assist the CLSA to better achieve or mission.

Reporting Responsibility

This Whistleblower Policy is intended to encourage and enable members and others to raise serious concerns internally so that CLSA can address and correct inappropriate conduct and actions. It is the responsibility of all directors, officers, committee members, liaisons and volunteers to report concerns about violations of CLSA's code of ethics or suspected violations of law or regulations that govern CLSA's operations.

No Retaliation

It is contrary to the values of CLSA for anyone to retaliate against any member or others who in good faith report an ethics violation, or a suspected violation of law, such as a complaint of discrimination, or suspected fraud, or suspected violation of any regulation governing the operations of CLSA. Any CLSA representative who retaliates against someone who has reported a violation in good faith is subject to disciplinary action under the bylaws of CLSA.

Reporting Procedure

CLSA has an open door policy and suggests that members and others share their questions, concerns, suggestions or complaints with CLSA. To help facilitate this transparency CLSA will have a Compliance Committee hear and report on whistleblower activity. If you are not comfortable speaking directly with one of the Compliance Committee members of CLSA you are encouraged to speak with one of the Board of Directors. Board Directors are required to report complaints or concerns about suspected ethical and legal violations in writing to the CLSA Compliance Committee, who has the responsibility to investigate all reported complaints. Members and others with concerns or complaints may also submit their concerns in writing directly to the Compliance Committee, the Executive Director or one of the Board of Directors.

Compliance Committee

The CLSA Compliance Committee is responsible for ensuring that all complaints about unethical or illegal conduct are investigated and resolved. The Compliance Committee will advise the Executive Committee and the Board of Directors of all complaints and their resolution. The Compliance Committee will be comprised of the two current Members at Large to the Board of Directors together with the Immediate Past President of CLSA. In the unlikely event that any member of this committee is named in a whistleblower action they shall remove themselves from the investigation and notify the Executive Committee of this conflict of interest. The Executive Committee may then appoint a replacement member if necessary to complete the investigation.

Accounting and Auditing Matters

The Compliance Committee shall immediately notify the Executive Committee of any concerns or complaint regarding corporate accounting practices, internal controls or auditing impropriety and work with the Executive Committee until the matter is resolved. If these alleged improprieties involve any member or members of the Executive Committee, the Compliance Committee shall report these matters to the Board of Directors.

Acting in Good Faith

Anyone filing a written complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

Confidentiality

Violations or suspected violations may be submitted on a confidential basis by the complainant. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

Handling of Reported Violations

The CLSA Compliance Committee will notify the person who submitted a complaint and acknowledge receipt of the reported violation or suspected violation. All reports will be promptly investigated and appropriate corrective action will be recommended to the Board of Directors if warranted by the investigation.

CLSA Policy #

Policy approved by the Board of Directors on {Date}.

California Land Surveyors Association

526 So. E Street, Santa Rosa, CA 95404
Telephone: 707.578.6016 FAX: 707.578.4406

DRAFT

ANTITRUST STATEMENT

(To be read aloud by Chair / Facilitator at the beginning of any CLSA meeting/gathering.)

It is the policy of the California Land Surveyors Association (CLSA) and its members to comply with laws and regulations applicable to their activities.

Among other things, CLSA members and leaders are subject to antitrust laws that prohibit fixing prices, allocating geographic markets, unfair or deceptive practices, setting profit levels; boycotts, and most other anticompetitive actions. CLSA will neither permit nor condone anti-competitive behavior, whether willful or inadvertent, in connection with any CLSA activity.

Additionally, discussion among two or more providers that suggests intentional or unintentional fraudulent activity is illegal. For example, [insert a suitable example, such as: discussion of methods to enhance reimbursement by providing services that are not necessary may amount to a crime (conspiracy to commit fraud)].

Conversations involving discussion of matters that may violate applicable laws and regulations should always be avoided, even in private settings, and cannot be tolerated in connection with any CLSA meeting or activity. Persons engaging in possible violations of CLSA policy during meetings or activities will be required to cease such activities, and if necessary, are subject to ejection by the presiding officer of the meeting.

Questions concerning antitrust or other laws or regulations connected to CLSA activities should be referred immediately to the CLSA Executive Director.

California Land Surveyors Association

526 So. E Street, Santa Rosa, CA 95404
Telephone: 707.578.6016 FAX: 707.578.4406

ANTITRUST LAW COMPLIANCE POLICY AND GUIDELINES

It is the policy of the California Land Surveyors Association (CLSA) and its members to strictly comply with laws and regulations applicable to their activities, including federal and state antitrust laws. It is further the policy of CLSA to assist its members and volunteers in complying with federal and state antitrust laws. CLSA members and leaders are expected to conscientiously adhere to antitrust laws. CLSA will neither knowingly permit nor condone anti-competitive behavior, whether willful or inadvertent, in connection with any CLSA activity.

ANTITRUST LAWS

The antitrust laws seek to preserve a free competitive economy. As a general rule, competitors may not restrain competition among themselves through understandings or agreements as to the price, the production or the distribution of their products, or other agreements that unreasonably restrict competitive capabilities or opportunities of their competitors, their suppliers or their customers. The antitrust laws also prohibit monopolization and attempts to monopolize, unfair methods of competition, unfair or deceptive acts or practices, most discrimination in prices between different purchasers in the sale of a commodity, exclusive dealing arrangements, most tying sales and requirements contracts, some joint ventures/mergers/consolidations, and similar activities. A more complete discussion of the antitrust laws (Sherman Act, Federal Trade Commission Act, the Clayton Act, the Robinson-Patman Act, and California's Cartwright Act) is available upon request from CLSA.

However, antitrust laws are often unclear in terms of applicability to any given conduct. Whether or not an antitrust violation exists depends purely on the specific conduct and facts involved in each instance. Notwithstanding the nebulous nature of the antitrust law, penalties for violating them, both civil and criminal, are severe. Certain activities can result in felony criminal convictions with penalties of up to three (3) years in prison and \$100K fines for individuals and \$1,000K fines for corporations per offense. Also, treble damages are available to private persons enforcing the antitrust laws.

Association members and leaders, in particular, have compelling reasons to understand and comply with antitrust laws because antitrust violation commonly consist of two elements: 1) concerted action with produces 2) an unreasonable restraint of competition. Since CLSA's activities involve meetings and activities of competitors (CLSA members), the concerted action element can generally be established without difficulty. The only other element necessary to prove a basic antitrust violation is to show that the action amounts to an unreasonable restraint of competition. So, agreements or activities of association members that are anti-competitive or have an anti-competitive effect, whether conducted as association business or not, could result in serious antitrust consequences.

MEMBER RESPONSIBILITIES

CLSA programs are carefully designed and monitored on an ongoing basis to ensure compliance with antitrust law. Every CLSA member, whether organizational or individual, has a duty and responsibility under the law to avoid and prevent antitrust violations. Every CLSA member needs to understand basic antitrust laws, to recognize areas of potential antitrust risk, and to overtly object to and refuse to

participate in any activity that poses antitrust risk until that risk is properly assessed and cleared by legal counsel or other qualified advisor.

AREAS OF RISK

It is not possible to provide a complete or specific list of activities that amount to an antitrust violation. However, it is helpful to identify areas of risk, where close attention can be paid to the possible anti-competitive nature of the agreements or activity involve. Some areas of risk include discussions of the following:

- Controlling or influencing current or future prices (for purchase or sale), controlling or influencing price increases or decreases, or stabilization or standardization of prices

Note: Discussion of prices established by third parties not influenced or controlled by the discussing parties is generally not, standing alone, anti-competitive or illegal.

- What constitutes a “fair” profit level
- Procedures for establishing selling prices, cash discounts, credit terms
- Control of sales levels, inventory levels or timing of sales
- Allocation or division of markets or geographical divisions of markets among competitors
- Agreements, recommendations or suggestions that members refuse to deal with certain other persons or firms (boycott)
- Whether or not the pricing practices of any competitor/industry member are unethical, or constitute an unfair trade practice
- Agreements limiting or restricting advertising

Again, some discussions relating to activities identified above will not amount to antitrust violations. However, discussions relating to them require thorough prior antitrust analysis and guidance in the discussion.

CLSA MEETINGS

To avoid even the appearance of impropriety, as well as to avoid inadvertent violation of antitrust laws, all association board and committee meetings will be conducted in accordance with the following rules:

1. A written agenda will be prepared and distributed in advance of each meeting. Agendized issues with potential antitrust implications will be reviewed and discussed by the chairman, executive director and legal counsel, if deemed appropriate. Additions to the agenda having potential antitrust implications should be postponed, or discussions of such matters held with legal counsel or other qualified advisor present.
2. Accurate, detailed meeting minutes of every meeting will be prepared and reviewed. Audio, video or other recordings of meetings will not be permitted. Minutes will be approved at the next meeting.
3. In the event of concern regarding potential antitrust implications of a discussion, discussion must be discontinued pending resolution of the matter through the executive director or legal counsel, if necessary.
4. In the event that any member has a concern about potential antitrust implications of discussion during a meeting, he or she shall interrupt discussion and state that concern immediately. If discussion is

not terminated and the concern resolved, the concerned member should state that he or she is leaving the meeting for that reason, and leave.

5. Conversations involving discussion of matters in violation of this policy will not be tolerated at a association meeting, and violating parties may be ejected from the meeting by the chairman.

CALIFORNIA LAND SURVEYORS ASSOCIATION

Chapter Affiliation Agreement

This Agreement is entered into as of this _____ day of _____, 201_ between the California Land Surveyors Association (CLSA), a California nonprofit mutual benefit corporation and undersigned _____ (Chapter) with respect to the following:

A. CLSA is the preeminent professional association of Land Surveyors in the State of California whose overall purpose is to advance the interests of the profession of land surveying, to maintain the highest possible standards of professional ethics and practice, to encourage uniformity of practices and procedures, and foster public faith in and understanding of Land Surveyors and their work.

B. The _____ Chapter duly chartered by CLSA on [date] shall continue until suspended or terminated as provided below.

1. Name. CLSA licenses the use of its name to the Chapter for the purpose of using the CLSA name in conformance with the terms and conditions of this Agreement, provided Chapter shall adopt, continue to force, and use as its own name the following: "California Land Surveyors Association, _____ Chapter" and shall refer to itself as such in the conduct of its affairs. The license shall continue until it is suspended or terminated as provided below.

3. Logo. CLSA licenses the use of its logo, as modified to include the Chapter designation, to the Chapter for the purpose of identifying itself in conformance with the terms and conditions of this Agreement. The license shall continue until it is suspended or terminated as provided below.

4. CLSA Membership. Per CLSA Bylaws, all members of the Chapter must be members in good standing of the CLSA within one year of having been a Chapter member.

5. Leadership. Any and all Chapter Board or Committee volunteers must be a CLSA member in good standing.

6. Standards. The Chapter shall conform its activities to the purposes of CLSA as expressed in the CLSA Articles of Incorporation, Bylaws, Board-approved policies, resolutions, and Code of Ethics as amended from time-to-time, as established by the Board.

7. Incorporation. The Chapter shall be organized and operated as a independent subdivision of CLSA with its own tax identification number. Neither party shall have the authority to direct or control the other except as specifically provided in this Agreement. Neither party shall have the authority to bind the other except as specifically provided in this Agreement. No partnership or joint venture is created by this Agreement.

8. Insurance. CLSA may, at its sole option, procure insurance in the following general coverage areas that will specifically name the Chapter as an insured: comprehensive general liability insurance or its equivalent and association professional liability insurance (directors and officers liability insurance) or its equivalent. The Chapter will be responsible for determining whether those policies, if any, are adequate for the Chapter's particular needs. Chapter may obtain other or additional insurance as it deems appropriate.

9. Indemnification. Each party shall defend, indemnify, and hold harmless the other against any claim arising from the negligence or willful misconduct of the indemnifying party, its agents and employees in the performance of its own activities. Other than as may be provided by law, neither party shall be accountable to the other for punitive or exemplary damages, or damages related to loss of goodwill, lost profits, emotional distress or the like.

10. Programs, Activities and Materials. The parties shall inform each other of significant programs and activities to be presented to members and others. Upon reasonable notice to and consultation with the Chapter, CLSA reserves the right to present programs in the Chapter territory. CLSA and the Chapter shall exchange education and informational materials produced by each. The Chapter shall provide, on a quarterly basis, an event/speaker summary to CLSA's Executive Office with copies of all materials distributed to Chapter members. All summaries and materials will be made available to CLSA Chapters upon request.

12. Records and Reports. The Chapter shall keep such records and make such reports as CLSA may require. The Chapter shall provide CLSA copies of its Board minutes and financial statements in March and November of each year.

13. Contracting. Any legal agreements entered into on behalf of the Chapter should be approved by the Chapter Board and reflected in the Chapter minutes. Such agreements may in no way bind CLSA or any other CLSA Chapter. Contracts that involve the use of the CLSA name or logo must be submitted to CLSA for prior written approval which shall be granted or denied within seven (7) days of request.

14. Tax Matters. The Chapter is encouraged to maintain the same accounting year as that of CLSA. Chapter agrees to provide CLSA with financial accounting, in such format and in such detail, as required by CLSA, for the purposes of preparing and filing tax returns on the chapter's behalf, regardless of whether Chapter has a separate tax exemption or is exempt under CLSA's Group Exemption.

15. Suspension or Termination. CLSA retains the right to suspend or terminate this Agreement and any of the benefits conferred under it to the Chapter based on a good faith determination by the CLSA Board of Directors that the Chapter has substantially breached any of the provisions of this Agreement or has or is taking actions prejudicial to the interests of CLSA. A Chapter may terminate this Agreement for any or no reason by a majority vote of its members.

16. Review and Revisions. This Agreement may be revised or amended only by a written document executed by both parties. Notwithstanding the preceding sentence, CLSA may revise its bylaws, policies and/or code of ethics at any time without the consent of Chapter.

IN WITNESS WHEREOF, the parties have entered into this agreement as of the day and year first above written.

CLSA: California Land Surveyors Association, a California nonprofit mutual benefit corporation

By: _____

Title: _____

_____ Chapter

By: _____

Title: _____

Pursuant to the authority granted by Chapter Board motion adopted on _____ (date), a true and correct copy of which is attached to the Agreement.

This form is provided as a membership service by:



Agreement for Professional Services Between Client and Consultant

Project No: _____

THIS AGREEMENT is made and entered into at _____ [location] _____

Effective this _____ day of _____, _____, by and between:

CONSULTANT: License/Registration No. _____

CLIENT:

Name: _____ ("Consultant _____")

Name: _____ ("Client _____")

Address: _____

Address: _____

Telephone No.: (_____) _____

Telephone No.: (_____) _____

Fax No.: _____

Fax No.: _____

Email: _____

Email: _____

The property upon which the services hereinafter described are to be performed is located at _____

Assessors Parcel No. _____ (hereinafter the "Property").

In consideration of the mutual promises and conditions contained in this Agreement, Consultant _____ and Client _____ agree as follows:

A. CLIENT AND CONSULTANT AGREE AS FOLLOWS:

B. GENERAL PROVISIONS:

Client _____ agrees to engage Consultant _____ according to the terms of this Agreement for Professional Services ("Agreement").

Client _____ and Consultant _____ agree that the following provisions shall be part of this Agreement:

1. Consultant _____ agrees to perform the services set forth on Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Services").

1. **Ownership of Work Product.** Client _____ acknowledges that all original papers, documents, maps, surveys, and other work product of Consultant _____, and copies thereof, produced by Consultant _____ pursuant to this Agreement (except documents which are required to be filed with public agencies shall remain the property of Consultant _____). Consultant _____ shall have the unrestricted right to use any such work product, for any legal purpose whatsoever, without the consent of Client _____. Client _____ further acknowledges that Client _____'s right to utilize the Services and work product performed pursuant to this Agreement will continue only so long as Client _____ is not in default pursuant to the terms and conditions of this Agreement and Client _____ has performed all material obligations under this Agreement.

2. Client _____ agrees to compensate Consultant _____ for its Services according to the schedule of payments attached hereto as Exhibit "B" and incorporated herein by this reference ("Schedule"). Consultant _____ reserves the right to increase the fees as set forth in Exhibit "B" by a reasonable amount at reasonable intervals and with _____ days of prior written notice to Client _____.

3. Client _____ agrees to provide Consultant _____ with any and all documents necessary to identify the ownership, location and condition of the Property (including, but not limited to: deeds, maps, title information, and permits) and to obtain for Consultant _____ the authorization of the owner to enter upon the Property for the purpose of conducting Consultant _____'s Services thereon.

2. **Use of Work Product.** Client _____ agrees not to use or permit any other person to use final maps, exhibits, legal descriptions, surveys, or other work product (hereinafter collectively referred to as "Work Product") prepared by Consultant _____, which Work

Product is not final and which is not signed, and stamped or sealed by Consultant _____ Client _____ agrees that Consultant _____ is not responsible for any such use of non-final Work Product by Client _____ and waives any right to claim liability against Consultant _____ for this use.

Client _____ further agrees that the final Work Product produced by Consultant _____ is for the sole use of Client _____ for the specific purpose described in this Agreement. Such final Work Product may not be altered or reproduced in any way, nor used on any other project, or for any purposes other than as specifically authorized by Consultant _____ in writing prior to any such use, alteration, or reproduction or as may otherwise be required by law or legal process.

3. Changes in Work Product – Indemnity. In the event that Client _____ agrees to permit changes or authorizes changes in the documents prepared by Consultant _____ pursuant to this Agreement, to which changes Consultant _____ has not previously consented to in writing, Client _____ acknowledges that such changes and the effects of such changes are not the responsibility of Consultant _____.

Client _____ agrees that Consultant _____ is automatically released from any and all liability arising there from and further agrees to defend, indemnify and hold harmless Consultant _____, its officers, directors, principals, agents and employees from and against all claims, demands, damages or costs arising there from unless caused by the sole negligence or willful misconduct of Consultant _____.

4. Copyright. All Work Product identified in this Agreement as within the scope of Services of Consultant _____, shall be deemed protected as if such Work Product was within the protections against third-party use and disclosure of the general copyright law of the United States as well as California, including common law and statutory law, whether or not such Work Product actually is so copyrighted and without regard to whether or not such copyright law actually applies to such Work Product.

5. Billing. All fees and other charges attributable to this Agreement will be billed by Consultant _____ to Client _____ on a monthly basis and shall be due and payable by Client _____ at the time of billing within thirty (30) calendar days from Client _____'s receipt of billing by Consultant _____, unless otherwise specified in this Agreement. Client _____ agrees that all billings from Consultant _____ to Client _____ are correct, conclusive, and binding on Client unless Client _____, within ten (10) calendar days from the date of such billing, notifies Consultant _____ in writing of Client _____'s objection stating the alleged inconsistencies with this Agreement, inaccuracies, discrepancies, or errors in Consultant _____'s billing. In the event Client _____ so notifies Consultant _____ of such objection, Client _____ shall nevertheless pay the billed amount and address such objection thereafter.

6. Payment by Others. If payment for Consultant _____'s Services is to be made on behalf of Client _____ by a third-party, including a lender, Client _____ agrees that Consultant _____ shall not be required to indemnify the third-party in the form of any endorsement or otherwise, as a condition to Consultant _____'s right to receive payment for Services. This Agreement shall not be conditioned upon financing. Client _____ represents that it has adequate funds for the payment of Consultant _____'s fees, and the validity of this Agreement is not dependent upon Client _____ obtaining financing.

7. Late Charges. In the event Client _____ fails to make payments as required pursuant to this Agreement, it would be difficult to fix the damages suffered by Consultant _____ because of varying rates of interest and inflation and because late payment impairs capital and business operations. The parties therefore agree that a charge of 1.5 percent per month will be assessed on all overdue balances. This rate represents a reasonable estimate of fair compensation for the foreseeable losses that might result from late payment to Consultant _____.

8. Suspension or Termination of Agreement by Consultant _____. In addition to any and all of Consultant _____'s rights pursuant to this Agreement and as allowed by law because of the default of Client _____, Consultant _____ shall have the right to suspend or terminate this Agreement upon the occurrence of any of the following events:

- (a) Death of Client _____'s principal officer or owner,
- (b) Change in fifty percent (50%) or more in the ownership of Client _____,
- (c) Any material breach by Client _____ of any provision of this Agreement, including the failure to make any payment when due, if such material breach remains uncured for more than twenty (20) calendar days following written notice to Client _____ describing the nature of the breach and demand for cure.

Consultant _____ may exercise the right of suspension or termination as provided herein by the delivery of written notice to Client _____ informing Client _____ of the suspension or termination, the effective date of such termination or suspension, and the reason(s) for same. Consultant _____ will provide the maximum amount of written notice to Client _____ that is reasonable under the circumstances. Any written notice required under this Agreement shall be deemed to have been delivered to Client _____ three (3) business days after the deposit of said notice in the U.S. Mail, first class postage prepaid, addressed to Client _____ at the address appearing at the outset of this Agreement, unless Client _____ has previously provided Consultant _____ with written notice of a change of address.

9. Suspension or Termination of Agreement by Client _____. In addition to any and all of Client _____'s rights pursuant to this Agreement and as allowed by law because of the default of Consultant _____, Client _____ shall have the right to suspend or terminate this Agreement upon the occurrence of any of the following events:

- (a) Death of Consultant _____'s principal officer or owner,
- (b) Change in fifty percent (50%) or more in the ownership of Consultant _____,
- (c) Any material breach by Consultant _____ of any provision of this Agreement, including the failure to provide Services and/or Work Product when due, if such material breach remains uncured for more than twenty (20) calendar days following written notice to Consultant _____ describing the nature of the breach and demand for cure.

Client _____ may exercise the right of suspension or termination as provided herein by delivery of written notice to Consultant _____ informing Consultant _____ of the suspension or termination, the effective date of such termination or suspension, and the reason(s) for same. Client _____ will provide the maximum amount of written notice to Consultant _____ that is reasonable under the circumstances. Any written notice required under this Agreement shall be deemed to have been delivered to Consultant _____ three (3) business days after the deposit of said notice in the U.S. Mail, first class postage prepaid, addressed to Consultant _____ at the address appearing at the outset of this Agreement, unless Consultant _____ has previously provided Client _____ with written notice of a change of address.

10. Early Termination Release. Consultant _____ has a right to complete all Services agreed to be rendered pursuant to this Agreement. In the event this Agreement is terminated by Client _____ before the completion of all Services by Consultant _____, unless Consultant _____ is wholly or partially responsible for such early termination, Client _____ agrees to pay Consultant _____ the full contract price minus any remaining costs not yet incurred by Consultant _____ and that any such termination shall automatically release Consultant _____ from any liability for any Services performed.

Comment [d1]: "At time of billing is vague and does not allow for time to dispute bill, ask questions, etc."

Comment [d2]: Pay and then have to fight to get money back? I would rather they have to try to come to an agreement and then pay that amount.

Comment [d3]: I don't think you want to release all liability yet. What is there is a problem discovered later.

11. **ALTA Surveys.** Client _____ agrees that in performing requested ALTA surveys in accordance with this Agreement, Consultant _____ may be required to sign a statement on the survey documents in a form set forth in **Exhibit 1** attached hereto and incorporated herein by this reference. In the event that Consultant _____ is required to sign a statement or certificate which differs from that contained in **Exhibit 1**, Client _____ hereby agrees to indemnify and hold Consultant _____ harmless from any and all liability arising from or resulting from the signing of any such different statement.

12. **Government Changes.** Pursuant to this Agreement, if Consultant _____ produces Work Product and/or performs field services, and such Work Product and/or field services is/are required by one (1) or more governmental agencies, and such governmental agency changes its ordinances, policies, procedures or requirement after the date of this Agreement, any legally required additional office or field services thereby required shall be paid for by Client _____ as Extra Services. See **Exhibit 1**, Extra/Additional Services.

13. **Changed Conditions.** In the event Client _____ discovers or becomes aware of changed field or other conditions which necessitate clarification, adjustments, modifications or other changes, Client _____ agrees to notify Consultant _____ and engage Consultant _____ to prepare the necessary clarifications, adjustments, modifications or other changes to Consultant _____'s Services before further activity proceeds. Further, Client _____ agrees that any construction contracts for any project which involves Consultant _____'s Work Product shall include a provision that requires the contractor to notify Client _____ of any changed field or other conditions after which Client _____ shall timely notify Consultant _____.

14. **Additional Services.** Client _____ acknowledges that the Services described in **Exhibit A** are based upon field and other conditions existing at the time of the execution of this Agreement. Client _____ further acknowledges that clarifications, adjustments, modifications and other changes may be necessary to reflect changed field or other conditions. If Consultant _____ determines that changed field or other conditions reasonably require or otherwise justify the provision of Services in addition to those specified in this Agreement (such services to be referred to hereafter as "Additional Services"), Consultant _____ shall, by whatever means Consultant _____ deems reasonable under the circumstances, notify Client _____ immediately (maximum of three (3) business days) of the nature of such changed field or other conditions and the need for Additional Services charges. If Consultant _____ successfully notifies Client _____ of the changed field or other conditions and the need for Additional Services and obtains Client _____'s approval for these Additional Services in writing, Client _____ authorizes Consultant _____ to provide the Additional Services and agrees to pay for same at the rates set forth on **Exhibit B** attached hereto and incorporated herein by this reference. Any such Additional Services shall be performed subject to the terms and conditions of this Agreement as if specifically provided for herein.

15. **Locating, Referencing or Resetting Monuments.** In the event Consultant _____ is required to locate, reference, or reset any monument in order to comply with Section 8771 of the California Business and Professions Code, or any other statute, regulation, rule, ordinance, or directive, the actual cost shall be paid by Client _____ as Additional Services. In addition, Client _____ shall pay all costs incurred in the preparation of documents related to locating, referencing or resetting monuments.

16. **Restaking.** In the event that Consultant _____'s staking is destroyed, damaged or disturbed by an Act of God or parties other than Consultant _____, the cost of restaking shall be paid for by Client _____ as Additional Services.

17. **Payment of Costs.** Client _____ shall pay the costs of the following fees (if required by law): checking and inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial topography fees, and all other fees, permits, bond premiums, title company charges, blueprints and reproductions, and any other required and material fees and/or costs not stated in this Agreement relating to the Services performed by Consultant _____.

In the event all or any portion of the Services are suspended, and restarted, Client _____ agrees to pay Consultant _____ on demand, as an Additional Service, any additional expense or services required by Consultant _____ as a result of suspension of the Services.

18. **Records of Survey.** Client _____ acknowledges and agrees that, if Consultant _____ provides surveying services requiring the filing of a Record of Survey in accordance with California Business and Professions Code § 8762, all costs of preparation, examination and filing of such Record of Survey will be paid by Client _____ as Additional Services.

19. **Governmental Actions.** Consultant _____ shall not be liable for damages resulting from the actions or inactions of governmental agencies (without negligence or willful misconduct of Consultant _____) including, but not limited to, permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, project or plan approvals, and building permits.

20. **Performance of Others.** Client _____ acknowledges that Consultant _____ is not responsible for the performance of services by third parties including, but not limited to, engineers, architects, contractors, subcontractors, or suppliers.

21. **Delays.** Consultant _____ is not responsible for delay caused by activities or factors beyond Consultant _____'s control including, but not limited to, delays caused by strikes, lockouts, work slowdowns or stoppages, accidents, Acts of God, failure of Client _____ to timely furnish material and necessary information or approve or disapprove Consultant _____'s work in a reasonable amount of time, faulty performance by Client _____ or others, including contractors and governmental agencies and excluding the performance of Consultant _____. In the event such delays occur, Client _____ agrees to hold Consultant _____ harmless therefor.

22. **Bankruptcy.** Consultant _____ shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations under this Agreement if Consultant _____ receives notice that Client _____ has filed a voluntary petition for Bankruptcy or if an involuntary Bankruptcy petition is filed against Client _____, and such petition is not dismissed within fifteen (15) calendar days of its filing. Any suspension of Services made pursuant to the provisions of this Paragraph shall continue until such time as this Agreement has been fully and properly assumed in accordance with the applicable provisions of the United States Bankruptcy Code and in compliance with the final order or judgment issued by the Bankruptcy Court.

23. **Lien Rights.** This Agreement shall not be construed to alter, affect or waive any lien or stop notice right(s) or other remedy, which Consultant _____ may have for the performance of Services pursuant to this Agreement. Client _____ agrees to separately provide to Consultant _____, the present name and address of the record owner of the Property on which Consultant _____ is to perform its Services. Client _____ also agrees to separately provide Consultant _____ with the name and address of any and all persons, including lenders, who are entitled to receive a preliminary notice.

24. **Hold Harmless.** Client _____ agrees to be solely and completely responsible for job-site conditions not created by Consultant _____ during the course of Consultant _____'s performance, including safety of all persons and property. This requirement shall apply continuously and not be limited to normal working hours. Client _____ further agrees to defend, indemnify and hold Consultant _____ harmless from any and all liability, real or alleged, in connection therewith, except liability arising from the sole negligence or willful misconduct of Consultant _____, including its employees, independent contractors, contractors, subcontractors, agents, owners, successors and/or assigns.

25. **Insurance.** Client _____ agrees to purchase and maintain, at no cost to Consultant _____, during the course of Consultant _____'s Services under this Agreement, the following insurance coverage (if Client _____ is required to so by California and federal law):

Comment [d4]: What is in the statement - need to be more specific if going to indemnify.

- a. A broad form "all risk" policy of insurance with course of construction, vandalism, and malicious mischief clauses attached,
- b. Workman's compensation insurance where applicable and required by law, and
- c. Insurance against injuries to persons under Client's direction and persons on the job-site at Client's invitation.

Said insurance shall be obtained in such amounts and with such insurers as are acceptable to Consultant _____, whose written approval will not be unreasonably withheld. Consultant _____ shall be named as an additional insured under each required policy. Should Client _____ fail to obtain said required insurance(s), Consultant _____ may procure same as agent for and at the expense of Client _____ to insure Consultant _____ for any legally required coverage listed in this Paragraph. All other insurance coverage(s) will be the sole responsibility of Consultant _____.

26. Liability Limits. Client _____ agrees that Consultant _____'s total liability to Client _____, its agents, employees, contractors, subcontractors, successors and assigns, for professional negligence, acts, errors or omissions of Consultant _____, shall be limited to \$50,000 or Consultant _____'s fees, whichever is greater.

27. Estimates. Estimates of areas provided under this Agreement are not to be considered precise unless Consultant _____ specifically agrees in writing to provide the precise determination of such areas.

28. No Representations. Consultant _____ makes no representation concerning any estimated quantities or calculated areas or costs made in connection with maps, documents or other Work Product, other than that all such calculations and estimates are estimates only and Consultant _____ shall not be responsible for fluctuations therein. It is the responsibility of Client _____ to verify these matters.

29. Non-Responsibility for Job-Site Conditions. Consultant _____ assumes no responsibility for job-site conditions during the course of construction on the project, including safety of persons and property except for those job-site conditions created by the sole negligence or willful misconduct of Consultant _____, including its employees, independent contractors, contractors, subcontractors, agents, owners, successors and/or assigns.

30. No Warranties. Consultant _____ makes no warranty, either express or implied, as to its findings, recommendations, or professional advice except that the Services were performed pursuant to generally accepted standards of practice in effect at the time of performance.

31. Non-liability for Hazardous Materials. Client _____ acknowledges that Consultant _____'s scope of Services for this project does not include any services related, in any way, to asbestos and/or hazardous or toxic materials. Should Consultant _____, or any other party encounter such materials on the job-site or should it in any other way become known that such materials are present or may be present on the job-site or any adjacent or nearby areas which may affect Consultant _____'s Services, Consultant _____ may, at its option, terminate work on the project until such time as Client _____ retains a specialist licensed contractor to abate and/or remove the asbestos and/or hazardous or toxic materials and warrants that the job-site is free from any hazard which may result from the existence of such materials.

Client _____ further agrees to defend, indemnify and hold harmless Consultant _____, its officers, directors, principals, employees and agents from any asbestos and/or hazardous or toxic material related claims that may be brought by third parties as a result of the Services provided by Consultant _____ pursuant to this Agreement, except claims caused by the sole negligence or willful misconduct of Consultant _____.

32. Cooperation. Client _____ and Consultant _____ agree to cooperate with each other in every reasonable, ethical and legal way in the performance of this Agreement.

33. Waiver. Waiver by Consultant _____ or Client _____ of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any other term, condition, or covenant, or the breach of any other term, condition, or covenant and any such waiver shall not constitute a continuing waiver thereof.

34. Other and Further Performance. Upon written request, Client _____ and Consultant _____ shall both timely execute and deliver, or cause to be executed and delivered, such additional instruments, documents, and pay any governmental fees and charges reasonably and legally necessary for the completion of this Agreement.

35. Advisory Only. Consultant _____ shall only act in an advisory capacity to Client _____ in governmental relations. Client _____ shall be responsible for all decision-making activities therein.

36. Validity. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall be valid and binding on Client _____ and Consultant _____.

37. Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

38. Venue. In the event either party institutes any proceeding to enforce or interpret the provisions of this Agreement, such proceeding shall be brought and adjudicated in the county in which Consultant _____'s principal place of business is located, and Client _____ waives the right to bring, try or remove such action to any other county or judicial district.

39. Arbitration of Disputes. Any dispute arising out of or related to this Agreement shall be resolved by binding arbitration and not in a court of law. The dispute will be settled in accordance with the Rules of the American Arbitration Association, and judgment will be entered on the award. The arbitrator will award attorneys' fees to the prevailing party. If a party, after due notice, fails to appear at and participate in the proceedings, the arbitrator will make an award based on the evidence presented by the party who does participate.

In the event that Client _____ institutes a proceeding against Consultant _____, either directly or by way of cross-complaint, including a claim for indemnity, for alleged negligence, error, omission, or other failure to perform, wherein: (a) Client _____ fails to obtain a judgment or award in Client _____'s favor, (b) the action is dismissed, or (c) judgment or award is rendered for Consultant _____, Client _____ agrees to pay Consultant _____ immediately following the proceedings all costs of defense, including, but without limitation, reasonable attorneys' fees, expert witness fees, court costs, and any and all other expenses of defense.

40. Attorneys' Fees. If any proceeding is brought to enforce or interpret the provisions of this Agreement, the prevailing party therein shall be entitled to receive from the losing party therein, its reasonable attorneys' fees, which fees shall be set in the same proceeding, in addition to any other relief to which it may be entitled.

41. Assignment. This Agreement shall not be assigned by either Client _____ or Consultant _____ without the prior written consent of the other.

42. Binding. This Agreement shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of Client _____ and Consultant _____.

43. Integration Clause/ Entire Agreement. This Agreement contains the entire agreement between Client _____ and Consultant _____ relating to the project and the provision of Services to the project. Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force or effect. Subsequent modifications to this Agreement shall be in writing and signed by both Client _____ and Consultant _____.

Comment [d5]: I think this sounds low -if I were the client, I would not accept this.

Acceptance and Commencement. By execution of this Agreement Client _____ accepts the terms hereof, acknowledges receipt of a copy hereof, including all exhibits, and authorizes Consultant _____ to proceed with the Services. In the event Client _____ is not the owner of the Property, Client _____ represents that Client _____ has obtained permission from said owner for Consultant _____ to proceed.

IN WITNESS WHEREOF, the parties hereby execute this Agreement upon the terms and conditions stated above and on the date first above written.

CONSULTANT:

By: _____
Title: _____
Print Name: _____
Date: _____

CLIENT:

By: _____
Title: _____
Print Name: _____
Date: _____

- Exhibit "A" attached: _____
Client's Initials
- Exhibit "B" attached: _____
Client's Initials
- Exhibit "1" attached: _____
Client's Initials

Date: _____

Project No: _____

EXHIBIT "A"- Description of Services

Project Location: _____

AP#: _____

Description of Services:

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Date: _____

Project No: _____

EXHIBIT "B" – Schedule of Payments

Project Location: _____

AP#: _____

Schedule of Payments:

Date: _____

Project No: _____

EXHIBIT "1" – Extra/Additional Services

Project Location: _____

AP#: _____

Extra/Additional Charges:

Proposed Amendments to the CLSA Standard Contract Form:

Submitted by Ian Wilson

Section 10. ALTA Surveys. Client agrees that in performing requested ALTA surveys in accordance with this Agreement, Consultant ~~may be required to sign a~~ the certification statement found in the current ALTA/ACSM Land Title Survey Minimum Standards. ~~statement on the survey documents in a form set forth in Exhibit 1 attached hereto and incorporated herein by this reference.~~ In the event that Consultant is required to sign a statement or certificate which differs from that contained in ~~Exhibit 1~~ the current Standards, Client hereby agrees to indemnify and hold Consultant harmless from any and all liability arising from or resulting from the signing of any such different statement. Further, such differing statement will not be placed on the map, per Standards.