



## CITY OF GARDEN GROVE OFFICE OF THE CITY CLERK

*Safeguard all official records of the City.  
Conduct municipal elections and oversee legislative administration.  
Provide reliable, accurate, and timely information to the  
City Council, staff, and the general public.*

January 24, 2018

ProActive Consulting Group, LLC  
15235 Springdale Street  
Huntington Beach, CA 92649

Attention: Patrick Luu, Member

Enclosed is a copy of the Agreement by and between the City of Garden Grove and ProActive Consulting Group, LLC, to prepare the 2017 AQMD Annual Emission Report for the City of Garden Grove.

Sincerely,

Teresa Pomeroy, CMC  
City Clerk

By:   
Liz Vasquez  
Deputy City Clerk

Enclosure

c: Finance Department  
Finance Department/Purchasing  
Public Works Department

**Steven R. Jones**  
Mayor

**Phat Bui**  
Mayor Pro Tem - District 4

**Kris Beard**  
Council Member - District 1

**John R. O'Neill**  
Council Member - District 2

**Thu-Ha Nguyen**  
Council Member - District 3

**Stephanie Klopfenstein**  
Council Member - District 5

**Kim Bernice Nguyen**  
Council Member - District 6

## CONSULTANT AGREEMENT

THIS AGREEMENT is made this 24<sup>th</sup> day of January, 2018, by the CITY OF GARDEN GROVE, a municipal corporation, ("CITY") and ProActive Consulting Group, LLC, referred to as "CONSULTANT".

### RECITAL

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Garden Grove Council Resolution No. 9212-14 (January 28, 2014).
2. CITY desires to utilize the services of CONSULTANT to provide the agreed upon services as described below.
3. CONSULTANT is qualified by virtue of experience, training, education and expertise to accomplish services.

### AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** This Agreement shall cover services rendered from full execution of this agreement through May 31, 2018. This agreement may be terminated by the CITY without cause. In such event, the CITY will compensate CONSULTANT for work performed to date in accordance with fee schedule (Attachment "A"). Consultant is required to present evidence to support performed work completion.
2. **Services to be Provided.** The services to be performed by CONSULTANT shall consist of: CONSULTANT to Prepare the 2017 AQMD Annual Emission Report for the City of Garden Grove.
3. **Compensation.** CONSULTANT shall be compensated as follows:
  - 3.1 **AMOUNT.** Total Compensation under this agreement shall not exceed (NTE) One Thousand Five Hundred Dollars (\$1,500.00) payable in arrears and in accordance with proposal in Attachment "A", which is attached and incorporated by reference.
  - 3.2 **Payment.** For work under this Agreement, payment shall be made per monthly invoice for work completed. For extra work not a part of this Agreement, a written authorization by CITY will be required, and payment shall be based on standard hourly rates.

- 3.3 Records of Expenses. CONSULTANT shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to CITY.
- 3.4 Termination. CITY shall have the right to terminate this Agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

**4. Insurance requirements.**

- 4.1 COMMENCEMENT OF WORK. CONSULTANT shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.
- 4.2 WORKERS COMPENSATION INSURANCE. During the duration of this Agreement, CONSULTANT and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.
- 4.3 INSURANCE AMOUNTS. CONSULTANT shall maintain the following insurance for the duration of this Agreement. If CONSULTANT maintains higher insurance limits than the minimums shown above, CONSULTANT shall provide coverage for the higher insurance limits otherwise maintained by the CONSULTANT.
- (a) Commercial general liability *in an amount not less than \$1,000,000.00 per occurrence (claims made and modified occurrence policies are **not** acceptable)*; Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
- (b) Automobile liability, for all autos, *in an amount not less than \$1,000,000.00 combined single limit (claims made and modified occurrence policies are **not** acceptable)*; Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY.

*CONTRACTOR has executed the Request for Exemption from*

*Providing Automobile Liability Coverage, attached hereto as Attachment "B" and incorporated herein by this reference, and represents that under the contractual obligations, it does not drive to and from the City, Agency, or District for any reason.*

- (c) Professional liability *in the amount not less than \$1,000,000 per occurrence*; Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY. If the policy is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of the agreement, and for a period of three (3) years from the date of the completion of services provided. In the event of termination, cancellation, or material change in the policy, professional/consultant shall obtain continuing insurance coverage for the prior acts or omissions of professional/consultant during the course of performing services under the term of the agreement. The coverage shall be evidenced either by a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier.

**An On-Going and Completed Operations Additional Insured Endorsement** for the policy under section 4.3 (a) shall designate CITY, it's officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONSULTANT. CONSULTANT shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, it's officers, officials, employees, agents, and volunteers as additional insureds for automobiles, owned, leased, hired, or borrowed by the CONSULTANT. CONSULTANT shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONSULTANT's insurance coverage shall be primary insurance as respects CITY, it's officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, and volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

*If CONSULTANT maintains higher insurance limits than the minimums shown above, CONSULTANT shall provide coverage for the higher insurance limits otherwise maintained by the CONSULTANT.*

5. **Non-Liability of Officials and Employees of the City.** No official or employee of CITY shall be personally liable to CONSULTANT in the event of any default or breach by CITY, or for any amount which may become due to CONSULTANT.
6. **Non-Discrimination.** CONSULTANT covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that CONSULTANT shall act and be an independent contractor and not an agent or employee of the CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.
8. **Compliance with Law.** CONSULTANT shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
9. **Disclosure of Documents.** All documents or other information developed or received by CONSULTANT are confidential and shall not be disclosed without authorization by the CITY.
10. **Ownership of Work Product.** All documents or other information developed or received by CONSULTANT shall be the property of the CITY. CONSULTANT shall provide CITY with copies of these items upon demand or upon termination of this Agreement.
11. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
12. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.
  - a. (CONSULTANT)  
ProActive Consulting Group, LLC  
Attention: Patrick Luu-Project Manager  
15235 Springdale Street  
Huntington Beach, CA 92649
  - b. (Address of City Purchasing) (with a copy to):  
City of Garden Grove Garden Grove City Attorney  
11222 Acacia Parkway 11222 Acacia Parkway

13. **CONSULTANT'S PROPOSAL.** This Agreement shall include CONSULTANT'S proposal or bid which shall be incorporated herein by reference. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
14. **Licenses, Permits, and Fees.** At its sole expense, CONSULTANT shall obtain a Garden Grove Business License, all permits, and licenses as may be required by this Agreement.
15. **Familiarity with Work.** By executing this Agreement, CONSULTANT warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Consultant discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from CITY.
16. **Time of Essence.** Time is of the essence in the performance of this Agreement. Notwithstanding the foregoing, neither Consultant nor City shall be liable for delays in or including, but not limited to, acts of God, acts and/or omissions of federal, state, and local government authorities and regulatory agencies, strikes, riots, civil unrest, war, lockouts and accidents. For delays resulting from actions or inactions of City, Consultant shall be given an appropriate time extension and, where applicable, shall be compensated for all reasonable costs of labor, equipment, and other direct and indirect costs Consultant incurs during any such delay or interruption of services.
17. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONSULTANT, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONSULTANT shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONSULTANT is permitted to subcontract any part of this Agreement, CONSULTANT shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONSULTANT. CITY will deal directly with and will make all payments to CONSULTANT.

18. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
19. **Indemnification.** To the fullest extent permitted by law, CONTRACTOR defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damages of any nature, including interference with use of property, arising out of, or in any way connected with the negligence, recklessness and/or intentional wrongful conduct of CONTRACTOR, CONTRACTOR'S agents, officers, employees, subcontractors, or independent contractors hired by CONTRACTOR in the performance of the Agreement. The only exception to CONTRACTOR'S responsibility to protect, defend, and hold harmless CITY, is due to the negligence, recklessness and/or wrongful conduct of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the CONSULTANT.

20. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified only by subsequent mutual agreements executed by the CITY and CONSULTANT.
21. **Waiver.** All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the CITY and CONSULTANT.
22. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Orange County Superior Court.
23. **Appropriations.** This Agreement is subject to and contingent upon funds being appropriated therefor by the Garden Grove City Council for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the CITY.

**IN WITNESS THEREOF**, these parties have executed this Agreement on the day and year shown below.

Date: 1/24/18

**"CITY"**  
**CITY OF GARDEN GROVE**

[Signature]  
**By: City Manager**

**ATTESTED:**

[Signature]  
**City Clerk**

Date: 1/24/18

**"CONSULTANT"**  
**ProActive Consulting Group, LLC**

By: [Signature]

Name: PATRICK LUM

Title: MEMBER

Date: 1/16/2018

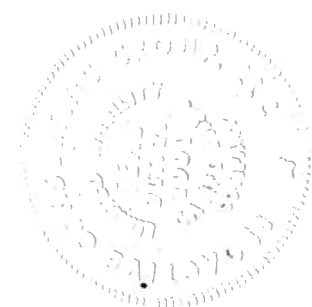
Tax ID No. 33-0921475

If CONSULTANT is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

**APPROVED AS TO FORM:**

[Signature]  
**Garden Grove City Attorney**

1-24-18  
**Date**





# Attachment "A"



## SCAQMD 2017 Annual Emissions Reports Preparation

Proposal for

**City of Garden Grove**  
11222 Acacia Parkway  
Garden Grove, CA 92840

From

**ProActive Consulting Group, LLC.**  
15235 Springdale Street  
Huntington Beach, CA 92649

January 3, 2018

This agreement is made between ProActive Consulting Group, LLC. (hereafter referred to as ProActive) and City of Garden Grove (hereafter referred to as "The Client", interchangeably).

**A. SCAQMD Annual Emissions Report Preparation**

The SCAQMD requires facilities that exceed specific emissions thresholds to annually report their emissions and pay fees based on the emissions of air contaminants as stated in Rule 301(e) and Rule 301(k)(10). The emission-based fee is authorized by State Health and Safety Code Section 40501 to be used to cover the cost of various air quality improvement efforts such as evaluation, planning, monitoring and inspections.

According to the SCAQMD database, the following three (3) sites might be subject to the annual emissions reporting requirements:

- 12573 Haster Street, Garden Grove, CA
- 11990 Knott Street, Garden Grove, CA
- 11301 Jerry Lane, Garden Grove, CA

ProActive will assist the Client to review the pertinent records and prepare the emissions reports for the required reporting period (January 2017 through December 2017), as per District Rule 301(e). The reports will be prepared and submitted via the new web-based compliance tool. The report is due on March 16, 2018. The calculated annual emission fee, payable to the SCAQMD, shall be provided by the Client.

**B. Professional Fees**


2017 Annual Emissions Report Preparation \$500 per facility

This Agreement is accepted on behalf of **City of Garden Grove** by:

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Print Name	Sign Name	Date
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This Agreement is accepted on behalf of **ProActive Consulting Group, LLC.**, by:

		
Patrick Luu, MS, CPP, QISP		01/03/2018

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Print Name	Sign Name	Date
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Terms and Conditions for the Agreement are listed on Page 3.

### **C. Terms and Conditions**

**COOPERATION** The Client agrees to furnish ProActive with accurate data on a timely basis as is reasonably requested. The Client shall provide ProActive with access to personnel, records, facilities, and assets as reasonably necessary to facilitate ProActive's performance.

**PERFORMANCE** ProActive will perform services described in this agreement using due diligence, best efforts, and commercially reasonable judgment, but unless specifically delineated in writing, ProActive guarantees no specific outcome toward full compliance with all regulations and laws to the Client. ProActive shall provide adequate personnel time to fulfill the service requirements, and may perform services at times at Client's facilities as mutually agreed.

**PAYMENT** All invoices are due within 30 days upon receipt. The Client is responsible for any fees associated with the project such as emissions fee. If the balance is not paid within the 30-day net terms, the Client will be responsible for payment of 1.5% interest per month, collection fees and reasonable attorney's fees in connection with an attempt to collect any balance due and owed.

**OWNERSHIP** All written documents prepared by ProActive shall be the property of the Client. Confidential information obtained from employees of the Client and incorporated into documents by ProActive shall be used exclusively to facilitate performance of this agreement. The Client shall retain ownership of all confidential information.

**INDEMNITY** The Client shall hold ProActive harmless in and from all claims, liabilities, damages, detriments. ProActive cannot be held responsible for any penalties or damages as a result of omission of information from either the Client or the Client's suppliers. ProActive's liability for this Agreement shall not exceed the total professional fees for the services contracted thereunder under any and all circumstances. In no event shall ProActive be liable for the cost of procurement of substituted services or legal services by the Client. The issuance of a Purchase Order represents the Client's acceptance of the Terms and Conditions as stated above regardless whether a signed Agreement is returned to ProActive Consulting Group, LLC.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
01/17/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Cornerstone Specialty Insurance Services, Inc. 14252 Culver Drive, A299  Irvine CA 92604	<b>CONTACT NAME:</b> Tina Cowie <b>PHONE (A/C, No, Ext):</b> (714)731-7700 <b>E-MAIL ADDRESS:</b> tina@cornerstonespecialty.com	<b>FAX (A/C, No):</b> (714)731-7750
	<b>INSURER(S) AFFORDING COVERAGE</b>	
	<b>INSURER A:</b> Valley Forge Insurance Company <i>A, XV</i>	<b>NAIC #</b> 20508
	<b>INSURER B:</b> American Cas.Co. of Reading PA <i>A, XV</i>	<b>20427</b>
<b>INSURED</b>  PROACTIVE CONSULTING GROUP, LLC 15235 Springdale St.  Huntington Beach CA 92649	<b>INSURER C:</b> Continental Casualty Company <i>A, XV</i>	<b>20443</b>
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**                                      **CERTIFICATE NUMBER:** 17/18 REV COVERAGES                                      **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> ADDTL INSURED/PRIMARY <input checked="" type="checkbox"/> BLNKT WVR OF SUBRO  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		2084330890	06/01/2017	06/01/2018	EACH OCCURRENCE	\$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	Y		2084330890	06/01/2017	06/01/2018	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			<i>Reviewed and approved as to insurance language and/or requirements.</i> <i>Nedra M. Gray</i> <i>1-18-18</i> <i>Risk Management</i>	06/01/2017	06/01/2018	EACH OCCURRENCE	\$
	AGGREGATE						\$	
							\$	
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A			4024152345	06/01/2017	06/01/2018	<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT    \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE    \$ 1,000,000 E.L. DISEASE - POLICY LIMIT    \$ 1,000,000	
C	Professional Liability Claims Made			EEH288355962	07/28/2017	07/28/2018	Each Claim    \$1,000,000 Annual Aggregate    \$2,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Environmental Compliance Consulting Services. CCity of Garden Grove, its officers, officials, employees, agents and volunteers are named as Additional Insured for General Liability and Non-Owned & Hired Auto Liability but only if required by written contract with the Named Insured prior to an occurrence and as per attached endorsement, including primary and non-contributory provisions. Coverage is subject to all policy terms and conditions. \*30 days notice of cancellation, except for 10 days notice for non-payment of premium. For Professional Liability coverage, the aggregate limit is the total insurance available for all covered claims reported within the policy period.

<b>CERTIFICATE HOLDER</b>  City of Garden Grove 11222 Acacia Parkway  Garden Grove CA 92840	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  <i>Tina Cowie</i>



INSURED: PROACTIVE CONSULTING GROUP, LLC

POLICY PERIOD: 06/01/2017 to 06/01/2018

POLICY NUMBER: 2084330890 ✓

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BLANKET ADDITIONAL INSURED WITH PRODUCTS-COMPLETED OPERATIONS COVERAGE AND BLANKET WAIVER OF SUBROGATION / AGGREGATE LIMIT (PER PROJECT)**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM  
BUSINESSOWNERS COMMON POLICY CONDITIONS

**1. Blanket Additional Insured with Product-Completed Operations Coverage and Blanket Waiver of Subrogation**

The following is added to **Section C., - Who is an Insured:**

**A.** The Businessowners Liability Coverage form is amended to include as an insured, any person or organization whom you are required to add as an additional insured on this policy under a written contract or written agreement, but the written contract or written agreement must be:

- 1. Currently in effect or becoming effective during the term of this policy; and
- 2. Executed prior to the "bodily injury," "property damage," or "personal and advertising injury."

**B.** The insurance provided to the additional insured is limited as follows:

- 1. That person or organization is an additional insured solely for liability due to your negligence specifically resulting from "your work" for the additional insured which is the subject of the written contract or written agreement. No coverage applies to liability resulting from the sole negligence of the additional insured.
- 2. The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.
- 3. The coverage provided to the additional insured within this endorsement and section titled Liability and Medical Expenses Definitions – "Insured Contract" (Section F., item 9.), within the Businessowners Liability Coverage Form, does not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless required by the written contract or written agreement.
- 4. The insurance provided to the additional insured does not apply to "bodily injury," "property damage," "personal and advertising injury" arising out of an architect's, engineer's, or surveyor's rendering of or failure to render any professional services, including:
  - a. The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications by any architect, engineer or surveyor performing services on a project of which you serve as a construction manager; or
  - b. Inspection, supervision, quality control, engineering or architectural services done by you on a project of which you serve as construction manager.
- 5. This insurance does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of:

1-18-18  
Therese M. Gray  
and requirements  
approved as to insurance language



- a. The construction or demolition work while you are acting as a construction or demolition contractor. This exclusion does not apply to work done for or by you at your premises.

**C. Other Insurance (Section H.2. and H.3.) of the Businessowners Common Policy Conditions are deleted and replaced with the following:**

- 2. This insurance is excess over any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance be either primary or primary and noncontributing to the additional insured's own coverage. This insurance is excess over any other insurance to which the additional insured has been added as an additional insured by endorsement.
- 3. When this insurance is excess, we will have no duty under Coverages A or B to defend the additional insured against any "suit" if any other insurer has a duty to defend the additional insured against that "suit" if no other insurer defends, we will undertake to do so, but we will be entitled to the additional insured's rights against all those other insurers.

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

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

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

**D. Transfer of Rights of Recovery Against Others To Us (Section K.2.) of the Businessowners Common Policy Conditions is deleted and replaced with the following:**

- 2. We waive any right of recovery we may have against any person or organization against whom you have agreed to waive such right of recovery in a written contract or agreement because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included within the "products-completed operations hazard."

**2. Amendment- Aggregate Limits of Insurance (Per Project)**

- A. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Coverage A.1., and for all medical expenses caused by accidents under Coverage A.2., which can be attributed only to ongoing operations at a single construction project:
  - 1. A separate Construction Project General Aggregate limit applies to each construction project. The Construction Project General Aggregate limit is equal to the amount of the General Aggregate limit shown in the Declarations.
  - 2. The Construction Project General Aggregate limit is the most we will pay for the sum of all damages payable under Coverage A.1., except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard," and for medical expenses payable under Coverage A.2. regardless of the number of:
    - a. Insureds;
    - b. Claims made or "suits" brought; or
    - c. Persons or organizations making claims or bringing "suits."
  - 3. Any payments made under Coverage A.1. for damages or under Coverage A.2. for medical expenses shall reduce the Construction Project General Aggregate limit for the applicable construction project. Such payments shall not reduce the General Aggregate limit shown in the Declarations nor shall they reduce any Construction Project General Aggregate limit applicable to other construction projects.

Reviewed and approved as to insurance language  
 under endorsement  
 Risk Management  
 1-18-18  
 [Signature]



4. The limits shown in the Declarations for Liability and Medical Expenses, Damage to Premises Rented to You, and Medical Expenses continue to apply. However, instead of being subject to the General Aggregate limit shown in the Declarations, such limits will be subject to the applicable Construction Project General Aggregate limit.
- B. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences," and for all medical expenses caused by accidents, which cannot be attributed only to ongoing operations at a single construction project:
  1. Any payments made under Coverage A.1. for damages or under Coverage A.2. for medical expenses shall reduce the amount available under the General Aggregate limit or the Products/Completed Operations Aggregate limit, whichever is applicable; and
  2. Such payments shall not reduce any Construction Project General Aggregate limit.
- C. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products/Completed Operations Aggregate limit, and not reduce the General Aggregate limit nor any Construction Project General Aggregate limit.
- D. If a construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E. The provisions of the Limits Of Insurance section not otherwise modified by this endorsement shall continue to apply as stipulated.

All other terms and conditions of the Policy remain unchanged.



INSURED: **Proactive Consulting Group, LLC**

POLICY NUMBER: **4024152345**

EXPIRATION DATE: **6/1/2018**

**WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY**

**BLANKET WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS**

This endorsement changes the policy to which it is attached.

It is agreed that **Part One – Workers' Compensation Insurance G. Recovery From Others** and **Part Two – Employers' Liability Insurance H. Recovery From Others** are amended by adding the following:

We will not enforce our right to recover against persons or organizations. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

**Premium Charge** - 5% of the total standard premium for California exposure.