

AGREEMENT

between

CITY OF KEY WEST

and

BCC Engineering, LLC

for

GENERAL ENGINEERING SERVICES

KEY WEST, FLORIDA

This is an Agreement between: CITY OF KEY WEST, its successors and assigns, hereinafter referred to as "CITY," and BCC Engineering, LLC, a corporation organized under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "ENGINEER".

WITNESSETH, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and ENGINEER agree as follows:

ARTICLE 1

DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

1.1. Agreement: This document, Articles 1 through 7, inclusive. Other terms and conditions are included in the CITY's RFQ 22-006, ENGINEER's Response to RFQ dated

December 7, 2022, exhibits, Task Orders, and supplemental documents that are by this provision expressly incorporated herein by reference.

1.2. Commissioners: Members of the City Commission with all legislative powers of the CITY vested therein.

1.3. ENGINEER: The firm selected to perform the services pursuant to this Agreement.

1.4. Contract Administrator: The ranking managerial employee of the CITY or some other employee expressly designated as Contract Administrator by the City Manager, who is the representative of the CITY. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.

1.5. Contractor: The person, firm, corporation or other entity that enters into an agreement with CITY to perform the construction work for the Task Order.

1.6. CITY: City of Key West.

1.7. Task Order: A detailed description of a particular service or services to be performed by ENGINEER under this Agreement.

ARTICLE 2

PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and generally to express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1. The ENGINEER is not entitled to receive, and the CITY is not obligated to pay, any fees or expenses in excess of the amount budgeted for Task Orders authorized under this Agreement in each fiscal year (October 1-September 30) by CITY. The budgeted amount may only be modified per City Ordinance(s).
- 2.2. The CITY has met the requirements of the Engineers' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected ENGINEER to perform the services hereunder based on the Request for Qualifications _____ incorporated by reference and made a part hereof and the Response to the Request for Qualifications from Engineer dated _____, 20____, incorporated by reference and made part of.
- 2.3. Negotiations pertaining to the services to be performed by ENGINEER were undertaken between ENGINEER and staff selected by the Commission, and this Agreement incorporates the results of such negotiations.

ARTICLE 3

SCOPE OF SERVICES AND STANDARD OF CARE

3.1. ENGINEER's services may include but are not limited to the following in regard to the Agreement:

- 3.1.1. Civil Engineering Services
- 3.1.2. Utility Engineering Services
- 3.1.3. Solid Waste Engineering Services
- 3.1.4. Coastal Engineering Services
- 3.1.5. Structural Engineering Services

3.2. ENGINEER's services shall include comprehensive full-scale engineering, design, surveying, permit preparation, preparing contract specifications, preparing bid and proposal documents and assisting the City with technical review and ranking of the same to attain qualified contractors for work, environmental assessments, construction administration and owner project representation services relating to operation, new construction, permit modification, construction improvements, rehabilitation and or retrofits, and any other lawful professional Engineering services that the ENGINEER is qualified to provide, and that the CITY authorizes the ENGINEER to undertake in connection with this Agreement. ENGINEER shall provide all necessary, incidental and related activities and services as required.

3.3. ENGINEER and CITY acknowledge that the Scope of Services does not delineate every detail and minor work task required to be performed by ENGINEER to complete any particular task order. If, during the course of the performance of the services included in this Agreement, ENGINEER determines that work should be performed to complete the Task Order which is, in the ENGINEER's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, ENGINEER shall notify Contract Administrator in writing in a timely manner before proceeding with the work. If ENGINEER proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work. Performance of work by ENGINEER outside the originally anticipated level of effort without prior written CITY approval or modification of Task Order is at ENGINEER's sole risk.

3.4. The specific services to be provided by the ENGINEER and the compensation for such services shall be as mutually agreed to in separate Task Orders to this AGREEMENT. Each Task Order when fully executed shall become a supplement to and a part of this AGREEMENT.

3.4.1. Each Task Order shall be supported by appropriate cost and pricing data and such other documentation as required by the CITY.

3.4.2. Task Orders shall be numbered consecutively as specified by CITY. Each Task Order shall include a description of the scope of services and specified deliverables, time of completion, total estimated costs of services, and method of compensation. Additional information shall be provided to the CITY if required. Amended Task Orders shall include substantially the same information and be submitted to the CITY for approval.

3.4.3. The CITY may make or approve changes within the general Scope of Services in any Task

Order. If such changes affect the ENGINEER's cost of or time required for performance of the services, an equitable adjustment shall be made through an amendment to the Task Order.

- 3.4.4. A Task Order may be terminated at any time, with or without cause, by the CITY upon written notice to ENGINEER. ENGINEER shall perform no further work upon receipt of this notice unless specifically authorized by the City Manager of the City of Key West. On termination, the ENGINEER shall be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the Task Order. The CITY shall not pay for anticipatory profits. The termination of this Agreement pursuant to Paragraph 7.2, hereof, shall constitute the termination of any and all outstanding Task Orders.
- 3.4.5. The ENGINEER shall begin services under any Task Order when authorized by a Purchase Order issued by the CITY and delivered to ENGINEER.
- 3.5. The CITY and ENGINEER may negotiate additional scopes of services, compensation, time of performance and other related matters for each Task Order as allowed by this Agreement. If CITY and ENGINEER cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services from another source.
- 3.6. ENGINEER shall perform the professional services under this Agreement at the level customary for competent and prudent professionals in ENGINEER'S field performing such services at the time and place where the services are provided. In the event ENGINEER does not comply with this standard, and omissions or errors are made by ENGINEER, ENGINEER will correct such work that contains errors or omissions and reimburse CITY through compensation for damages.
- 3.7. ENGINEER is required to perform the Task Orders consistent with current applicable Federal, State and City laws, codes and regulations that pertain to the Task Order. In all Task Orders, where changes to any laws, codes or regulations affecting the Task Order have a Task Ordered effective date or are anticipated to be effective at a future date, or if knowledge of anticipated changes is available to ENGINEER or any sub-consultant, ENGINEER shall present options for their use or implementation.
- 3.8. Construction Responsibility - Notwithstanding anything in this Agreement, ENGINEER shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures, precautions and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by CITY's construction contractors.
- 3.9. Estimates - Since ENGINEER has no control over local conditions, the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, ENGINEER does not guarantee the accuracy of any opinions of probable construction cost as compared to construction contractor's bids or the actual cost to the CITY.

ARTICLE 4

TERM OF AGREEMENT: TIME FOR PERFORMANCE: CONTRACTOR DAMAGES:

The term of this Agreement shall be for a period of three (3) years from the effective date of the Agreement with the option of a two (2) year renewal. The Agreement will be in effect upon execution by both parties. The Agreement may be renewed at the discretion of the CITY.

- 4.1.** ENGINEER shall perform the services described in each Task Order within the time periods specified. Each such time period shall commence from the date of the purchase order issued for such services.
- 4.2.** ENGINEER must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent Task Order. Prior to granting approval for ENGINEER to proceed to a subsequent Task Order, the Contract Administrator may, at his or her sole option, require ENGINEER to submit any deliverables/documents for the Contract Administrator's review.
- 4.3.** In the event ENGINEER is unable to complete the above services because of delays resulting from untimely review by CITY or other governmental authorities having jurisdiction over the Task Order, and such delays are not the fault of ENGINEER, or because of delays which were caused by factors outside the control of ENGINEER, CITY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of ENGINEER to notify CITY within 10 days in writing whenever a delay in approval by a governmental agency, including CITY, is anticipated or experienced, and to inform the Contract Administrator of all facts and details related to the delay.
- 4.4.** In the event the Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY or if Contractor is granted an extension of time beyond said substantial completion date, and ENGINEER's services are extended beyond the substantial completion date, through no fault of ENGINEER, ENGINEER shall be compensated in accordance with Article 5 for all services rendered by ENGINEER beyond the substantial completion date.
- 4.5.** In the event Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY, and the failure to substantially complete is caused in whole or in part by a negligent act, error or omission of ENGINEER, then ENGINEER shall pay to CITY its proportional share of any claim or damages to Contractor or CITY arising out of the delay. This provision shall not affect the rights and obligations of either party as set forth in Paragraph 7.8, INDEMNIFICATION OF CITY.

ARTICLE 5

COMPENSATION AND METHOD OF PAYMENT

5.1. AMOUNT AND METHOD OF COMPENSATION

The types of compensation methods, which shall be used to pay for the ENGINEER's services, are limited to the following:

5.1.1. Lump sum payment/Not-to-Exceed, which includes compensation for all the ENGINEER'S salaries, general overhead costs, direct expenses, and profit.

5.1.1.1. If Work timing deviates from the assumed schedule for causes beyond ENGINEER's control, ENGINEER and/or the CITY reserves the right to request renegotiation of those portions of the lump sum affected by the time change. During construction contract administration, if tasked, it is agreed by both parties that whether construction is completed earlier or later, that a proportional part of the compensation will be adjusted and either given to ENGINEER for additional work or deleted from the amount owed ENGINEER for less time required.

5.1.1.2. In the event of a change of scope, CITY shall authorize in writing an appropriate decrease or increase in compensation.

5.1.1.3. Monthly invoicing will be based on an estimate of the percent of work completed at the end of the preceding month.

5.1.1.4. The ENGINEER shall submit wage rates and other actual unit costs supporting the compensation. The ENGINEER shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.

5.1.2. Cost Reimbursable-Per Diem (Time and Expenses)

5.1.2.1. Per diem rates are those hourly or daily rates charged for work performed on the WORK by ENGINEER's employees of the indicated classifications and include all salaries, overheads, and profit, but do not include allowances for Direct Expenses. These rates are subject to annual adjustments based on the Consumer Price Index Urban U.S. City Average All Items U.S. Department of Labor Bureau of Labor Statistics.

5.1.2.2. Hourly rates for the contract (ENGINEER AND Sub-consultants): See attached Exhibit A.

5.1.2.3. ENGINEER and Sub-consultants allowed annual wage adjustment on the Agreement effective anniversary dates shall not exceed the Data Resource Institute (DRI) forecast of wage and price escalation (the U.S. Bureau of Labor Statistics [BLS] Employment Cost Index [ECI] for Private Industry)

5.1.2.4. A budgetary amount will be established for each Task Order. This budgetary amount shall not be exceeded unless written approval is provided by the CITY. ENGINEER shall make reasonable efforts to complete the work within the budget and will keep CITY informed of progress toward that end so that the budget or work effort can be adjusted if found necessary.

5.1.2.5. ENGINEER is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CITY obligated to pay ENGINEER beyond these limit

5.1.2.6. When any budget has been increased, ENGINEER's excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increased.

5.2. REIMBURSABLE EXPENSES

5.2.1.1. Direct non-salary expenses, entitled Reimbursable Expenses, directly attributable to the Work shall be charged at actual cost, and shall be limited to the following:

5.2.1.2. Identifiable transportation expenses in connection with the Work, subject to the limitations of Section 112.061, Florida Statutes. There shall be no mileage reimbursement for travel within the City of Key West. Transportation expenses to locations outside the City area or from locations outside the City will not be reimbursed unless specifically pre-authorized in writing by the Contract Administrator.

5.2.1.3. Identifiable per diem, meals and lodgings, taxi fares, automobile rental, and miscellaneous travel- connected expenses for ENGINEER's personnel subject to the limitations of Section 112.061 Florida Statutes. Meals for class C travel inside the City of Key West will not be reimbursed. Lodging will be reimbursed only for room rates equivalent to Hampton Inn or Best Western located within the City of Key West city limits.

5.2.1.4. Identifiable communication expenses approved by Contract Administrator, long distance telephone, courier and express mail utilized to render the services required by this Agreement.

5.2.1.5. Cost of printing, reproduction or photography that is required by or of ENGINEER to deliver services set forth in this Agreement.

5.2.1.6. Identifiable testing costs approved by Contract Administrator.

5.2.1.7. All permit fees paid to regulatory agencies for approvals directly attributable to the Work. These permit fees do not include those permits required for the Contractor.

5.2.2. It is acknowledged and agreed to by ENGINEER that the dollar limitation set forth in paragraphs 5.2.1.1 through 5.2.1.7 is a limitation upon, and describes the maximum extent of, CITY's obligation to reimburse ENGINEER for direct, non-salary expenses. If CITY or Contract Administrator requests ENGINEER to incur expenses not contemplated in the amount for Reimbursable Expenses, ENGINEER shall notify Contract

Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by CITY prior to incurring such expenses.

5.2.3. All sub-consultants' hourly rates shall be billed in the actual amount paid by ENGINEER. Sub- consultant Reimbursable Expenses are limited to the items in Paragraphs 5.2.1.1 through 5.2.1.7 described above when the sub-consultant's agreement provides for reimbursable expenses.

5.3. METHOD OF BILLING

5.3.1. Lump Sum Compensation

ENGINEER shall submit billings identifying type of work completed on a monthly basis in a timely manner. These billings shall identify the nature of the work performed and the estimated percent of work accomplished. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, ENGINEER shall provide backup for past and current invoices that record hours, personnel, and expense costs on a task basis, so that total hours and costs by task may be determined.

5.3.2. Cost Reimbursable-Per Diem (Time and Expenses) Compensation

ENGINEER shall submit billings identifying the type of work completed on a monthly basis in a timely manner for all personnel hours and reimbursable expenses attributable to the Work. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category and name of the individuals performing same. Billings shall itemize and summarize reimbursable expenses by category and identify same as to the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for reimbursable expenses, a copy of the approval shall accompany the billing for such reimbursable. The statement shall show a summary of salary costs and reimbursable expenses with accrual of the total and credits for portions paid previously. External reimbursable expenses and sub-consultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain the purchase order number or other identifier that clearly indicates the expense is identifiable to the Work. Subsequent addition of the identifier to the invoice or receipt by the ENGINEER is not acceptable except for meals and travel expenses. Appropriate ENGINEER's cost accounting forms with a summary of charges must document internal expenses by category. When requested, ENGINEER shall provide backup for past and current invoices that records hours and rates by employee category, reimbursable expenses by category, and subcontractor fees on a task basis, so that total hours and costs by task may be determined.

5.3.3. If requested, ENGINEER shall provide copies of past paid invoices to any subcontractor or sub-consultant prior to receiving payment. CITY reserves the right to pay any subcontractor or sub- consultant, if ENGINEER has not paid them timely and the services of the subcontractor or sub- consultant are necessary to complete the Work.

5.4. METHOD OF PAYMENT

5.4.3. CITY shall pay ENGINEER within forty-five (45) calendar days from receipt of ENGINEER's proper invoice with documentation as provided above.

5.4.3. In the event ENGINEER has utilized a Sub-consultant to perform the Work, ENGINEER will be required to provide documentation that Sub-consultant and Sub-consultants of Sub-consultants have been paid prior to payment being made to ENGINEER.

5.4.3. Payment will be made to ENGINEER
at:

Address: _____

ARTICLE 6

CITY 'S RESPONSIBILITIES

- 6.1.** CITY shall assist ENGINEER by placing at ENGINEER's disposal all information CITY has available pertinent to the Task Order including previous reports and any other data relative to design or construction of the Task Order.
- 6.2.** CITY shall arrange for access to, and make all provisions for, ENGINEER to enter upon public and private property as required for ENGINEER to perform its services.
- 6.3.** CITY shall review the ENGINEER's itemized deliverables/documents identified in the Task Orders and respond in writing with any comment within the time set forth in the Task Order or within a reasonable time.
- 6.4.** CITY shall give prompt written notice to ENGINEER whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services or any defect in the work of any Contract.

ARTICLE 7

MISCELLANEOUS

7.1. OWNERSHIP OF DOCUMENTS

All finished or unfinished documents, data, data matrices and calculations generated and used to evaluate and compute the construction or material requirements for the Task Order, studies, surveys, drawings, maps, models, photographs and reports prepared or provided by ENGINEER in connection with this Agreement, whether in hard copy or electronic form, shall become the property of CITY, whether the Task Order for which they are made is completed or not. If applicable, CITY may withhold any payments then due to ENGINEER until ENGINEER complies with the provisions of this Article. ENGINEER is not responsible for damages caused by the unauthorized re- use by others of any of the materials for another Task Order.

7.2. TERMINATION

- 7.2.1. This Agreement may be terminated with or without cause by CITY at any time.
- 7.2.2. Notice of termination shall be provided in accordance with paragraph 7.12 NOTICES of this Agreement.
- 7.2.3. In the event this Agreement is terminated, ENGINEER shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 7.1 of this Agreement are provided to the CITY. Upon being notified of CITY's election to terminate, ENGINEER shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall CITY make payment of profit for services that have not been performed.

7.3. AUDIT RIGHT AND RETENTION OF RECORDS

- 7.3.1. CITY shall have the right to audit the books, records, and accounts of ENGINEER that are related to any Task Order. ENGINEER shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Task Order.

7.3.2. ENGINEER shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to ENGINEER's records, ENGINEER shall comply with all requirements thereof; however, ENGINEER shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

7.4. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AMERICANS WITH DISABILITIES ACT, AND EQUAL BENEFITS FOR DOMESTIC PARTNERS

7.4.1. ENGINEER shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.

7.4.2. ENGINEER's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, gender identity or expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor that cannot be lawfully or appropriately used as a basis for service delivery. ENGINEER shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, gender identity or expression, marital status, political affiliation, or physical or mental disability. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeships), and accessibility.

7.4.3. Engineer shall comply with City Ordinance Sec. 2-799 Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

7.5. PUBLIC ENTITY CRIMES ACT

7.5.1. ENGINEER represents that the execution of this Agreement shall not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, engineer or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or engineer under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in being barred from CITY's competitive procurement activities.

7.5.2. In addition to the foregoing, ENGINEER further represents that there has been no determination, based on an audit, that it or any sub-consultant, has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether ENGINEER has been placed on the convicted vendor list.

7.5.3. ENGINEER shall promptly notify CITY if it or any subcontractor or sub-consultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

7.6. SUB-CONSULTANTS

ENGINEER may use the sub-consultants identified in the proposal that was a material part of the selection of ENGINEER to provide the services under this Agreement. The CITY reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultants in order to make determination as to the capability of the sub-consultant to perform properly under this Contract. The CITY's acceptance of a sub-consultant shall not be unreasonably withheld. ENGINEER shall obtain written approval of Contract Administrator prior to changing or adding to the list of sub-consultants. The list of sub-consultants submitted and currently approved is as follows:

- a. _____
- b. _____

- c. _____
- d. _____

Hourly rates for such said Sub-consultants are as on attached Exhibit A.

7.7. ASSIGNMENT AND PERFORMANCE

- 7.7.1. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and ENGINEER shall not subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 7.6.
- 7.7.2. ENGINEER represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to CITY's satisfaction for the agreed compensation.
- 7.7.3. ENGINEER shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of ENGINEER's performance and all interim and final product(s) provided to or on behalf of CITY shall be in accordance with the standard of care set forth in Paragraph 3.6.
- 7.7.4. ENGINEER shall not change or replace overall project manager identified in the ENGINEER's response to the RFQ without the Contract Administrator's prior written approval.

7.8. INDEMNIFICATION OF CITY

- 7.8.1. To the fullest extent permitted by law, the ENGINEER expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnities") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the ENGINEER, its Subcontractors or persons employed or utilized by them in the performance of the Contract. Claims by indemnities for indemnification shall be limited to the amount of ENGINEER's insurance or \$1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.
- 7.8.2. The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the ENGINEER under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the ENGINEER or of any

third party to whom ENGINEER may subcontract a part or all of the Work. This indemnification shall continue beyond the date of completion of the Work.

7.9. INSURANCE

7.9.1. ENGINEER is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for workers' compensation, public liability, and property damage liability insurance, and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts to prevail if greater than minimum amounts indicated. Notwithstanding any other provision of the Contract, the ENGINEER shall provide the minimum limits of liability insurance coverage as follows:

Auto Liability	\$1,000,000	Combined Single Limit
General Liability	\$2,000,000	Aggregate (Per Project)
	\$2,000,000	Products Aggregate
	\$1,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$ 300,000	Fire Damage/Legal
Professional Liability	\$2,000,000	Per Claim / Aggregate

7.9.2. ENGINEER shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as an additional insured on all policies— excepting Professional Liability—on a PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its equivalent, (combination of CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations, is acceptable) including a waiver of subrogation clause in favor of City of Key West on all policies. ENGINEER will maintain the Professional Liability, General Liability, and Umbrella Liability insurance coverages summarized above with coverage continuing in full force including the additional insured endorsement until at least 3 years beyond completion and delivery of the work contracted herein.

7.9.3. Notwithstanding any other provision of the Contract, the ENGINEER shall maintain complete worker's compensation coverage for each and every employee, principal, officer, representative, or agent of the ENGINEER who is performing any labor, services, or material under the Contract. Further, ENGINEER shall additionally maintain the following minimum limits of coverage:

Bodily Injury Each Accident	\$1,000,000
Bodily Injury by Disease Each Employee	\$1,000,000
Bodily Injury by Disease Policy Limit	\$1,000,000

7.9.4. If the work is being done on or near a navigable waterway, ENGINEER's workers

compensation policy shall be endorsed to provide USL&H Act (WC 00 01 06 A) and Jones Act (WC 00 02 01 A) coverage if specified by the City of Key West. ENGINEER shall provide the City of Key West with a Certificate of Insurance verifying compliance with the workers' compensation coverage as set forth herein and shall provide as often as required by the City of Key West such certification which shall also show the insurance company, policy number, effective and expiration date, and the limits of worker's compensation coverage under each policy.

7.9.5. ENGINEER's insurance policies shall be endorsed to give 30 days written notice to the City of Key West in the event of cancellation or material change, using form CG 02 24, or its equivalent.

7.9.6. Certificates of Insurance submitted to the City of Key West will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.

7.9.7. ENGINEER will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. ENGINEER will notify City of Key West immediately by telephone at (305) 809-3964 any accident or injury to anyone that occurs on the jobsite and is related to any of the work being performed by the ENGINEER.

7.9.8. It shall be the responsibility of the Engineer to ensure that all sub-consultants/subcontractors comply with the same insurance requirements as is required of Engineer.

7.9.9. In addition, it is understood if at any time any of the policies required by the City shall become unsatisfactory to the City as to form or substance, or if a company issuing any such policy shall become unsatisfactory to the City, the Engineer shall obtain a new policy, submit the same to the City for approval and submit a certificate of insurance as which may be required by the contract. It is understood that upon failure of the Engineer to furnish, deliver and maintain such insurance as required above, the contract at the election of the City may be declared suspended, discontinued or terminated. Further, failure of the Engineer to take out and/or maintain any required insurance shall not relieve the Engineer from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the Engineer concerning indemnification.

7.10. REPRESENTATIVE OF CITY AND ENGINEER

7.10.1. The parties recognize that questions in the day-to-day conduct of the Task Order will arise. The Contract Administrator, upon ENGINEER's request, shall advise ENGINEER in writing of one (1) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Task Order shall be addressed.

7.10.2. ENGINEER shall inform the Contract Administrator in writing of

ENGINEER's representative to whom matters involving the conduct of the Task Order shall be addressed.

7.11. ALL PRIOR AGREEMENTS SUPERSEDED

- 7.11.1. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document and the exhibits attached. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.
- 7.11.2. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

7.12. NOTICES

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR CITY OF KEY WEST:

City of Key West
1300 White Street
Key West, FL 33040

FOR ENGINEER:

Contact Name: _____

Address: _____

7.13. TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by ENGINEER shall act as the execution of a truth-in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of

contracting. The original contract price for any Task Order and any additions thereto shall be adjusted to exclude any significant sums, by which CITY determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

7.14. INTERPRETATION

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence or paragraph where they appear, unless the context otherwise requires. Whenever reference is made to a Paragraph or Article of this Agreement, such reference is to the Paragraph or Article as a whole, including all of the subsections of such Paragraph, unless the reference is made to a particular subsection or subparagraph of such Paragraph or Article.

7.15. ENGINEER'S STAFF

- 7.15.1. ENGINEER shall provide the key staff identified in their proposal for Task Order as long as such key staffs are in ENGINEER's employment.
- 7.15.2. ENGINEER shall obtain prior written approval of Contract Administrator to change key staff. ENGINEER shall provide Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator shall be reasonable in evaluating key staff qualifications.
- 7.15.3. If Contract Administrator desires to request removal of any of ENGINEER's staff, Contract Administrator shall first meet with ENGINEER and provide reasonable justification for said removal.
- 7.15.4. The CITY reserves the right to approve the members of the Consulting Team and the roles they will undertake in the assignment. The CITY's acceptance of a team member shall not be unreasonably withheld.
- 7.15.5. Each assignment issued under this Agreement by the CITY to the Engineer, the Engineer will at the CITY's request, disclose the role, qualifications and hourly rate of each individual working on the assignment.
- 7.15.6. The CITY reserves the right to require replacement of any of the members of the Consulting Team. Any proposed addition or change of members of the Consulting Team initiated by the Engineer must obtain the CITY Representative's prior written approval.

7.15.7. In the event of the death, incapacity or termination of employment of any member of the Consulting Team before Completion of the Services, the Engineer shall at its own expense and as soon as reasonably practicable arrange to substitute or replace the individual member concerned.

7.15.8. The Engineer shall ensure that the substitute or replacement is no less qualified in terms of relevant experience and qualifications than the outgoing individual and is available at the relevant time to act as such replacement or substitute. The Engineer shall without delay forward curriculum vitae of the proposed substitute or replacement to the CITY. The deployment of such substitute or replacement shall be subject to the CITY's consent.

7.15.9. The Engineer shall solely be responsible for all direct, indirect and consequential costs or losses that may arise from the substitution or replacement of members of the Consulting Team.

7.16. INDEPENDENT CONTRACTOR

ENGINEER is an independent contractor under this Agreement. Services provided by ENGINEER shall be subject to the supervision of ENGINEER. In providing the services, ENGINEER or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY, nor shall they accrue any of the rights or benefits of a CITY employee. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.17. THIRD PARTY BENEFICIARIES

Neither ENGINEER nor CITY intend directly or substantially to benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. No subcontractor or sub-consultant, whether named or unnamed, shall be a third party beneficiary of this Agreement.

7.18. CONFLICTS

7.18.1. Neither ENGINEER nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with ENGINEER's loyal and conscientious exercise of judgment related to its performance under this Agreement.

7.18.2. ENGINEER agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal

proceeding.

7.18.3. In the event ENGINEER is permitted to use sub-consultants to perform any services required by this Agreement, ENGINEER agrees to prohibit such sub-consultants from having any conflicts as within the meaning of this section, and shall so notify them in writing.

7.19. CONTINGENCY FEE

ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for ENGINEER, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for ENGINEER, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

7.20. WAIVER OF BREACH AND MATERIALITY

7.20.1. Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.20.2. CITY and ENGINEER agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

7.21. COMPLIANCE WITH LAWS

ENGINEER shall comply with federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement applicable at the time the scope of services was drafted for this agreement. In addition, at the time each Task Order is executed, any revisions to applicable federal state, and local laws, codes, ordinances, rules and regulations shall apply.

7.22. SEVERABILITY

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or ENGINEER elects to terminate this Agreement.

7.23. JOINT PREPARATION

7.23. JOINT PREPARATION

Preparation of this Agreement has been a joint effort of CITY and ENGINEER and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

7.24. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.25. APPLICABLE LAW AND VENUE

The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, arbitration or any other legal proceeding shall be Monroe County, Florida.

7.26. INCORPORATION BY REFERENCE

The attached exhibits are incorporated into and made a part of this Agreement:

Exhibit A – ENGINEER/Sub-consultants’ Hourly Rates

7.27. COUNTERPARTS

This Agreement may be executed in three (3) counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the
respective dates under each signature.

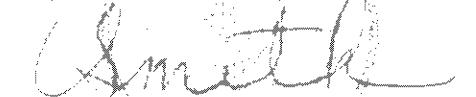
By: CITY OF KEY WEST



Patti McLaughlin, City Manager

1st day of March, 20 23

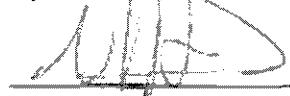
Attest:



Cheryl Smith, City Clerk

____ day of _____, 20 ____

By: ENGINEER



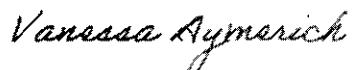
(Signature)

Vickie Weller SP. Vice President

(Print Name and Title)

23rd day of February, 20 23

Attest:



(Signature)

Vanessa Aymerich Contract Manager

(Print Name and Title)

24th day of February, 20 23

Exhibit A**Hourly Fee Schedule**Company Name: BCC Engineering, LLC Date: 02/24/2023

Position Title	Hourly Rate
Principal-In-Charge	\$ 300.00
Senior Project Manager	\$ 265.00
Project Manager	\$ 213.13
Senior Project Engineer	\$ 186.30
Project Engineer	\$ 163.94
Engineering Intern	\$ 107.31
Senior Design Technician	\$201.20
Design Technician	\$136.68
Senior CADD/Computer Technician	\$ 110.00
CADD/Computer Technician	\$ 101.35
Sr. CEI Inspector	\$134.13
CEI Inspector	\$ 93.00
Secretary/Clerical	\$ 78.33
Technical Writer	\$ 89.15
GIS Specialist	\$ 141.69

Exhibit A**Hourly Fee Schedule****Company Name:**MG Vera & Associates**Date:**02/24/2023

Position Title	Hourly Rate
Project Manager	\$ 271.88
Chief Surveyor	\$ 231.10
Surveyor & Mapper	\$ 237.89
CADD Technician	\$ 169.92
Survey Technician	\$ 105.35
Utility Coordinator	\$ 183.79
2-Person Survey Crew	\$ 175.88
3-Person Survey Crew	\$ 238.74
4 Person Survey Crew	\$ 301.63
2 Person Designating Crew	\$ 183.52
3-Person Designating Crew	\$ 234.49
4-Person Designating Crew	\$ 285.47

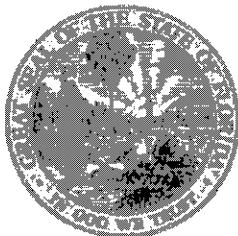
Exhibit A**Hourly Fee Schedule**

Company Name: Smart-Sciences, Inc. Date: 02/24/2023

Position Title	Hourly Rate
Principal Scientist	\$ 265.00
Chief Engineer/Scientist	\$ 300.00
Senior III Scientist	\$ 250.00
Senior II Scientist	\$ 225.00
Senior I Scientist	\$175.00
Project II Scientist	\$ 150.00
Project I Scientist	\$ 135.00
Staff II Scientist	\$120.00
Staff I Scientist	\$ 100.00
Technician	\$ 75.00
Intern	\$ 60.00
GIS/CADD Analyst	\$ 135.00
GIS/CADD Technician/Specialist	\$ 110.00

Exhibit A**Hourly Fee Schedule****Company Name: Professional Service Industries, Inc. Date: February 24, 2023**

Position Title	Hourly Rates
Chief Engineer.....	\$225.00
Senior Engineer.....	\$175.00
Project Engineer/Manager.....	\$130.00
Staff Engineer.....	\$95.00
Designer.....	\$115.00
CADD/Computer Technician.....	\$80.00
Chief Scientist.....	\$225.00
Senior Scientist/ Geologist/Engineer/Biologist.....	\$175.00
Senior Industrial Hygienist.....	\$140.00
Construction Supervisor.....	\$120.00
Staff Scientist/Geologist/Engineer/Biologist.....	\$110.00
Environmental Specialist/Industrial Hygienist.....	\$100.00
Senior Environmental Technician.....	\$90.00
Industrial Hygienist/Environmental Technician.....	\$80.00
Regional Geologist.....	\$115.00
Staff Geologist.....	\$85.00
GIS Specialist.....	\$145.00
Inspector/ Asset Management Technician.....	\$104.00
Structural Steel Inspector.....	\$85.00
Fireproofing Inspector.....	\$85.00
Senior Engineering Technician.....	\$65.00
Engineering Technician.....	\$55.00
Laboratory Technician.....	\$50.00
CEI - Senior Project Engineer.....	\$198.00
CEI - Project Administrator.....	\$138.00
CEI - Senior Inspector.....	\$95.00
CEI - Inspector.....	\$80.00
Administrative/Clerical.....	\$60.00



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Melanie S. Griffin, Secretary



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THE PROFESSIONAL ENGINEER HEREIN IS LICENSED UNDER THE
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VAZQUEZ, ALEX

4001 SW 145TH AVENUE
MIRAMAR FL 33027

LICENSE NUMBER: PE42108

EXPIRATION DATE: FEBRUARY 28, 2025

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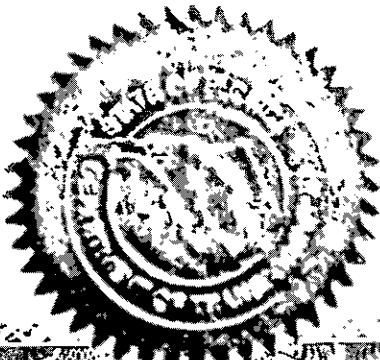
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Certified Bridge Inspector

Whereas Ana M. Gonzalez has shown competency and fitness to conduct bridge inspection as set forth in the National Bridge Inspection Standards and Florida Statute 335.074 Bridge Inspection Standards,

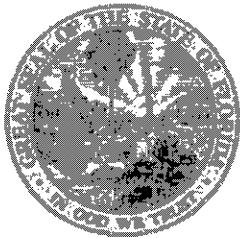
Therefore, under the authority granted by Chapter 14-48 Florida Administrative Code, the State of Florida Department of Transportation hereby issues this certificate numbered 00398 as provided by law and object to the powers of revocation vested in said Department on this

22nd day of October 2003, A.D.



Richard J. Linn
BRIDGE MANAGEMENT INSPECTION ENGINEER

John C. Harris
ENGINEER OF STRUCTURE MAINTENANCE



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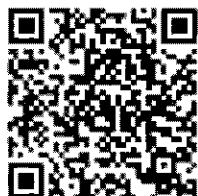
ESPINOSA, ARTURO

14211 SW 30TH STREET
MIAMI FL 33175

LICENSE NUMBER: PE82336

EXPIRATION DATE: FEBRUARY 28, 2025

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FORMOSO, CARLOS

12455 SW 45TH STREET
MIAMI FL 33175

LICENSE NUMBER: PE91830

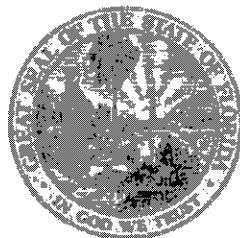
EXPIRATION DATE: FEBRUARY 28, 2025

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SPECIAL INSPECTOR NUMBER: 74647

AQUINO, CHRISTIAN

5210 SW 106 AVE
MIAMI FL 33165

LICENSE NUMBER: PE74647

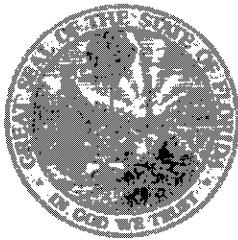
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PEREZ, CLAUDIA MARTHA

11871 SW 94 ST
MIAMI FL 33186

LICENSE NUMBER: PE87238

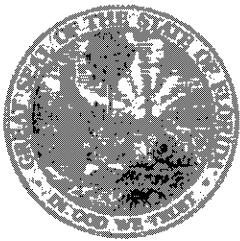
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GIRALDO, DANIEL

15920 SW 155TH AVE
MIAMI FL 33187

LICENSE NUMBER: PE94566

EXPIRATION DATE: FEBRUARY 28, 2025

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RAYMAT, DANIEL J.

10201 SW 82ND COURT
MIAMI FL 33156

LICENSE NUMBER: PE63111

EXPIRATION DATE: FEBRUARY 28, 2023

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CIFELLI, FELIPE A.

10838 N KENDALL DR
UNIT W7
MIAMI FL 33176

LICENSE NUMBER: PE84445

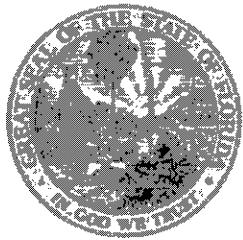
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QUESADA, GUSTAVO RAUL

9001 SW 85TH STREET
MIAMI FL 33173

LICENSE NUMBER: PE48310

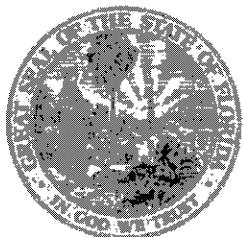
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DE LA ROSA, JOAN

13991 SW 153RD AVE
MIAMI FL 33196

LICENSE NUMBER: PE74705

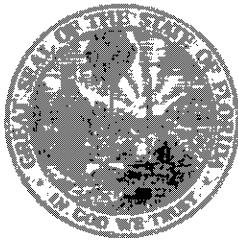
EXPIRATION DATE: FEBRUARY 28, 2023

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D'ANDREA, MARCELLO DAVIDE

17600 SW 91ST AVE.
PALMETTO BAY FL 33157

LICENSE NUMBER: PE78421

EXPIRATION DATE: FEBRUARY 28, 2023

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**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

CONSTRUCTION INDUSTRY LICENSING BOARD

THE GENERAL CONTRACTOR HEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

DURAN, RICARDO

REUTLINGER-DURAN CONSTRUCTION GROUP, LLC
3501 SW 110 AVE
MIAMI FL 33165

LICENSE NUMBER: CGC1522689

EXPIRATION DATE: AUGUST 31, 2024

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LABISTE, SIXTO CARLOS

13844 SW 107 TERRACE
MIAMI FL 33186

LICENSE NUMBER: PE52001

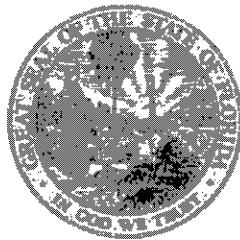
EXPIRATION DATE: FEBRUARY 28, 2025

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SOLER, DAVID

3051 ELIZABETH STREET
#3051
MIAMI FL 33133

LICENSE NUMBER: PE68468

EXPIRATION DATE: FEBRUARY 28, 2025

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SPECIAL INSPECTOR NUMBER: 1070

GOLDSTEIN, STEVEN MARK

6504 SW 113TH AVENUE
6504 SW 113 AVENUE
MIAMI FL 33173

LICENSE NUMBER: PE44423

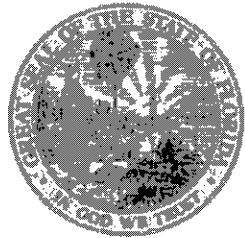
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HERRERA, VICTOR H.

11040 SW 64 STREET
MIAMI FL 33173

LICENSE NUMBER: PE71164

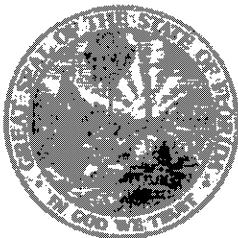
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MELENDEZ, WILFREDO A.

10556 SW 112TH AVENUE
MIAMI FL 33176

LICENSE NUMBER: PE81442

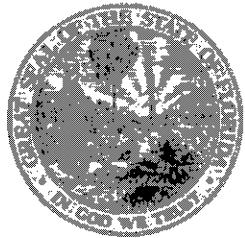
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GARCIA, WILLIAM

7804 SW 146TH COURT
MIAMI FL 331830000

LICENSE NUMBER: PE56781

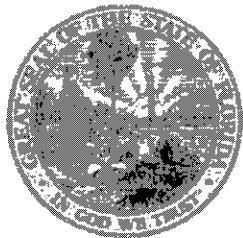
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PARES AGRAMONTE, ROLANDO RANGEL

4412 NW 203RD ST
MIAMI GARDENS FL 33055

LICENSE NUMBER: PE91413

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ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/20/2023

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 any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Carly Underwood	FAX (A/C, No.): 770.670.5324
	PHONE (A/C, No, Ext): 770.670.5324	
	E-MAIL ADDRESS: carly.underwood@greylinc.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: The Continental Insurance Company	35289
	INSURER B: Valley Forge Insurance Co	20508
	INSURER C: Transportation Insurance Co	20494
	INSURER D: Endurance American Specialty Ins. Co	41718
	INSURER E: National Fire Insurance Co of Hartford	20478
	INSURER F:	

COVERAGES		CERTIFICATE NUMBER: 22-23		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	ADD'L/SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)
A	COMMERCIAL GENERAL LIABILITY		7034261643	08/14/2022	08/14/2023
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/>				
	GEN'L AGGREGATE LIMIT APPLIES PER:				
	POLICY <input checked="" type="checkbox"/> PRO- JECT <input checked="" type="checkbox"/> LOC				
	OTHER:				
E	AUTOMOBILE LIABILITY		7034261688	08/14/2022	08/14/2023
	<input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY				
	<input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/>				
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/>		7034261707	08/14/2022	08/14/2023
	<input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/>				
	DED <input checked="" type="checkbox"/> RETENTION \$10,000				
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N	7034261657	08/14/2022	08/14/2023
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N	(AOS)	<input checked="" type="checkbox"/> PER STATUTE	OTHER
C			7034261660		
			(CA)		
D	Professional Liab incl. Pollution		DPL30023540700	08/14/2022	08/14/2023
					Per Claim \$2,000,000
					Aggregate \$2,000,000

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

Re: General Engineering Services Key West RFQ 22-006.

City of Key West is named as an Additional Insured with respects to General & Automobile Liability where required by written contract. The above referenced liability policies with the exception of workers compensation and professional liability are primary & non-contributory where required by written contract.

Waiver of Subrogation in favor of Additional Insureds where required by written contract & allowed by (See Attached Descriptions)

CERTIFICATE HOLDER	CANCELLATION
City of Key West 1300 White Street Key West, FL 33040	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>D. H. Glings</i>

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DESCRIPTIONS (Continued from Page 1)

law. Should any of the above described policies be cancelled by the issuing insurer before the expiration date thereof, we will endeavor to provide 30 days' written notice (except 10 days for nonpayment of premium) to the Certificate Holder.



SECTION II – WHO IS AN INSURED – BUSINESS AUTO COVERAGE FORM

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

I. LIABILITY COVERAGE

A. Who Is An Insured

The following is added to **Section II, Paragraph A.1., Who Is An Insured**:

1. a. Any incorporated entity of which the Named Insured owns a majority of the voting stock on the date of inception of this Coverage Form; provided that:
 - b. The insurance afforded by this provision A.1. does not apply to any such entity that is an insured under any other liability "policy" providing **auto** coverage.
2. Any organization you newly acquire or form, other than a limited liability company, partnership or joint venture, and over which you maintain majority ownership interest.

The insurance afforded by this provision **A.2.:**

- a. Is effective on the acquisition or formation date, and is afforded only until the end of the policy period of this Coverage Form, or the next anniversary of its inception date, whichever is earlier.
- b. Does not apply to:
 - (1) **Bodily injury or property damage** caused by an **accident** that occurred before you acquired or formed the organization; or
 - (2) Any such organization that is an insured under any other liability "policy" providing **auto** coverage.

3. Any person or organization that you are required by a written contract to name as an additional insured is an insured but only with respect to their legal liability for acts or omissions of a person, who qualifies as an insured under **SECTION II – WHO IS AN INSURED** and for whom Liability Coverage is afforded under this policy. If required by written contract, this insurance will be primary and non-contributory to insurance on which the additional insured is a Named Insured.
4. An **employee** of yours is an insured while operating an **auto** hired or rented under a contract or agreement in that **employee**'s name, with your permission, while performing duties related to the conduct of your business.

"Policy", as used in this provision **A. Who Is An Insured**, includes those policies that were in force on the inception date of this Coverage Form but:

1. Which are no longer in force; or
2. Whose limits have been exhausted.

B. Bail Bonds and Loss of Earnings

Section II, Paragraphs A.2. (2) and A.2. (4) are revised as follows:

1. In a.(2), the limit for the cost of bail bonds is changed from \$2,000 to \$5,000; and
2. In a.(4), the limit for the loss of earnings is changed from \$250 to \$500 a day.

Form No: CNA63359XX (04-2012)

Endorsement Effective Date:

Endorsement Expiration Date:

Policy No: 7034261688

Policy Effective Date: 08/14/2022

Endorsement No: 21; Page: 1 of 4

Policy Page: 89 of 109

Underwriting Company: The Continental Insurance Company, 151 N Franklin St, Chicago, IL 60606



C. Fellow Employee

Section II, Paragraph B.5 does not apply.

Such coverage as is afforded by this provision C. is excess over any other collectible insurance.

II. PHYSICAL DAMAGE COVERAGE

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

The following is added to **Section III, Paragraph A.3.:**

With respect to any covered **auto**, any deductible shown in the Declarations will not apply to glass breakage if such glass is repaired, in a manner acceptable to us, rather than replaced.

B. Transportation Expenses

Section III, Paragraph A.4.a. is revised, with respect to transportation expense incurred by you, to provide:

- a. \$60 per day, in lieu of \$20; subject to
- b. \$1,800 maximum, in lieu of \$600.

C. Loss of Use Expenses

Section III, Paragraph A.4.b. is revised, with respect to loss of use expenses incurred by you, to provide:

- a. \$1,000 maximum, in lieu of \$600.

D. Hired "Autos"

The following is added to **Section III, Paragraph A.:**

5. Hired "Autos"

If Physical Damage coverage is provided under this policy, and such coverage does not extend to Hired Autos, then Physical Damage coverage is extended to:

- a. Any covered **auto** you lease, hire, rent or borrow without a driver; and
- b. Any covered **auto** hired or rented by your **employee** without a driver, under a contract in that individual **employee**'s name, with your permission, while performing duties related to the conduct of your business.
- c. The most we will pay for any one **accident or loss** is the actual cash value, cost of repair, cost of replacement or \$75,000, whichever is less, minus a \$500 deductible for each covered **auto**. No deductible applies to **loss** caused by fire or lightning.
- d. The physical damage coverage as is provided by this provision is equal to the physical damage coverage(s) provided on your owned **autos**.
- e. Such physical damage coverage for hired **autos** will:
 - (1) Include loss of use, provided it is the consequence of an **accident** for which the Named Insured is legally liable, and as a result of which a monetary loss is sustained by the leasing or rental concern.
 - (2) Such coverage as is provided by this provision will be subject to a limit of \$750 per **accident**.

E. Airbag Coverage

The following is added to **Section III, Paragraph B.3.:**

The accidental discharge of an airbag shall not be considered mechanical breakdown.

Form No: CNA63359XX (04-2012)

Endorsement Effective Date:

Endorsement No: 21; Page: 2 of 4

Underwriting Company: The Continental Insurance Company, 151 N Franklin St, Chicago, IL 60606

Policy No: 7034261688

Policy Effective Date: 08/14/2022

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F. Electronic Equipment

Section III, Paragraphs B.4.c and B.4.d. are deleted and replaced by the following:

- c. Physical Damage Coverage on a covered **auto** also applies to **loss** to any permanently installed electronic equipment including its antennas and other accessories
- d. A \$100 per occurrence deductible applies to the coverage provided by this provision.

G. Diminution In Value

The following is added to **Section III, Paragraph B.6.:**

Subject to the following, the **diminution in value** exclusion does not apply to:

- a. Any covered **auto** of the private passenger type you lease, hire, rent or borrow, without a driver for a period of 30 days or less, while performing duties related to the conduct of your business; and
- b. Any covered **auto** of the private passenger type hired or rented by your employee without a driver for a period of 30 days or less, under a contract in that individual **employee's** name, with your permission, while performing duties related to the conduct of your business.
- c. Such coverage as is provided by this provision is limited to a **diminution in value** loss arising directly out of accidental damage and not as a result of the failure to make repairs; faulty or incomplete maintenance or repairs; or the installation of substandard parts.
- d. The most we will pay for **loss** to a covered **auto** in any one accident is the lesser of:
 - (1) \$5,000; or
 - (2) 20% of the **auto's** actual cash value (ACV).

III. Drive Other Car Coverage – Executive Officers

The following is added to **Sections II and III:**

- 1. Any **auto** you don't own, hire or borrow is a covered **auto** for Liability Coverage while being used by, and for Physical Damage Coverage while in the care, custody or control of, any of your "executive officers", except:
 - a. An **auto** owned by that "executive officer" or a member of that person's household; or
 - b. An **auto** used by that "executive officer" while working in a business of selling, servicing, repairing or parking **autos**.

Such Liability and/or Physical Damage Coverage as is afforded by this provision.

- (1) Equal to the greatest of those coverages afforded any covered **auto**; and
 - (2) Excess over any other collectible insurance.
- 2. For purposes of this provision, "executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document, and, while a resident of the same household, includes that person's spouse.

Such "executive officers" are **insureds** while using a covered **auto** described in this provision.

IV. BUSINESS AUTO CONDITIONS

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

The following is added to **Section IV, Paragraph A.2.a.:**

Form No: CNA63359XX (04-2012)

Endorsement Effective Date:

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Underwriting Company: The Continental Insurance Company, 151 N Franklin St, Chicago, IL 60606

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(4) Your employees may know of an **accident or loss**. This will not mean that you have such knowledge, unless such **accident or loss** is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

The following is added to **Section IV, Paragraph A.2.b.:**

(6) Your employees may know of documents received concerning a **claim or suit**. This will not mean that you have such knowledge, unless receipt of such documents is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

B. Transfer Of Rights Of Recovery Against Others To Us

The following is added to **Section IV, Paragraph A.5. Transfer Of Rights Of Recovery Against Others To Us:**

We waive any right of recovery we may have, because of payments we make for injury or damage, against any person or organization for whom or which you are required by written contract or agreement to obtain this waiver from us.

This injury or damage must arise out of your activities under a contract with that person or organization.

You must agree to that requirement prior to an **accident or loss**.

C. Concealment, Misrepresentation or Fraud

The following is added to **Section IV, Paragraph B.2.:**

Your failure to disclose all hazards existing on the date of inception of this Coverage Form shall not prejudice you with respect to the coverage afforded provided such failure or omission is not intentional.

D. Other Insurance

The following is added to **Section IV, Paragraph B.5.:**

Regardless of the provisions of Paragraphs 5.a. and 5.d. above, the coverage provided by this policy shall be on a primary non-contributory basis. This provision is applicable only when required by a written contract.

That written contract must have been entered into prior to **Accident or Loss**.

E. Policy Period, Coverage Territory

Section IV, Paragraph B. 7.(5).a. is revised to provide:

a. 45 days of coverage in lieu of 30 days.

V. DEFINITIONS

Section V. paragraph C. is deleted and replaced by the following:

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

Form No: CNA63359XX (04-2012)

Endorsement Effective Date:

Endorsement Expiration Date:

Policy No: 7034261688

Policy Effective Date: 08/14/2022

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Policy Page: 92 of 109

Underwriting Company: The Continental Insurance Company, 151 N Franklin St, Chicago, IL 60606



Architects, Engineers and Surveyors General Liability Extension Endorsement

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

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CNA74858XX (1-15)

Policy No: 7034261643

Insured Name: BCC Engineering, LLC

Effective Date: 08/14/2022



Architects, Engineers and Surveyors General Liability Extension Endorsement

1. ADDITIONAL INSUREDS

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs A. through I. below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:
 - (1) is currently in effect or becomes effective during the term of this **Coverage Part**; and
 - (2) was executed prior to:
 - (a) the **bodily injury or property damage**; or
 - (b) the offense that caused the **personal and advertising injury**,for which such additional insured seeks coverage.
- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
 - (1) a higher limit of insurance than required by such contract or agreement; or
 - (2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph A. through I. below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or
2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury, property damage or personal and advertising injury** as co-owner of such premises.

C. Engineers, Architects or Surveyors Engaged By You

An architect, engineer or surveyor engaged by the **Named Insured**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by the **Named Insured's** acts or omissions, or the acts or omissions of those acting on the **Named Insured's** behalf:

- a. in connection with the **Named Insured's** premises; or
- b. in the performance of the **Named Insured's** ongoing operations.

But the coverage hereby granted to such additional insureds does not apply to **bodily injury, property damage or personal and advertising injury** arising out of the rendering of or failure to render any professional services by, on behalf of, or for the **Named Insured**, including but not limited to:

1. the preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. supervisory, inspection, architectural or engineering activities.

D. Lessor of Equipment

CNA74858XX (1-15)

Policy No: 7034261643

Insured Name: BCC Engineering, LLC

Effective Date: 08/14/2022



Architects, Engineers and Surveyors General Liability Extension Endorsement

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

E. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

F. Lessor of Premises

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury or property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage or personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

H. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:

- a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
- b. the construction, erection, or removal of elevators; or
- c. the ownership, maintenance or use of any elevators covered by this insurance; or

2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

- a. **Bodily injury, property damage or personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. **Bodily injury or property damage** included within the **products-completed operations hazard**.



Architects, Engineers and Surveyors General Liability Extension Endorsement

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

I. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or display, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused by:
 - a. the **Named Insured's** acts or omissions; or
 - b. the acts or omissions of those acting on the **Named Insured's** behalf,in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.
2. The coverage granted by this paragraph does not apply to **bodily injury or property damage** included within the **products-completed operations hazard**.

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

The **Other Insurance Condition** in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision 2., the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. ADDITIONAL INSURED – EXTENDED COVERAGE

When an additional insured is added by this or any other endorsement attached to this **Coverage Part, WHO IS AN INSURED** is amended to make the following natural persons **Insureds**.

If the additional insured is:

- a. An individual, then his or her **spouse** is an **Insured**;
- b. A partnership or joint venture, then its partners, members and their **spouses** are **Insureds**;
- c. A limited liability company, then its members and managers are **Insureds**; or
- d. An organization other than a partnership, joint venture or limited liability company, then its executive officers, directors and shareholders are **Insureds**;

but only with respect to locations and operations covered by the additional insured endorsement's provisions, and only with respect to their respective roles within their organizations.

Please see the **ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES** provision of this endorsement for additional coverage and restrictions applicable to **spouses** of natural person **Insureds**.

4. BOATS

Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to add the following additional exception to the exclusion entitled **Aircraft, Auto or Watercraft**:

This exclusion does not apply to:

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- Any watercraft owned by the **Named Insured** that is less than 30 feet long while being used in the course of the **Named Insured's** inspection or surveying work.

5. BODILY INJURY – EXPANDED DEFINITION

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

Bodily injury means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

6. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following provisions:

A. BROAD KNOWLEDGE OF OCCURRENCE

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, **offense** or **claim** only when the **occurrence**, **offense** or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or to an **employee** designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, **offense** or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, **offense** or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, **offense** or **claim**.

7. BROAD NAMED INSURED

WHO IS AN INSURED is amended to delete its Paragraph 3. in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph 4. below, any organization in which a **Named Insured** has management control:

- a. on the effective date of this **Coverage Part**; or
- b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

- (a) any partnership, limited liability company or joint venture; or
- (b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

- A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or
- B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph 3. above, this insurance does not apply to:



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- a. **bodily injury or property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor
- b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

8. CONTRACTUAL LIABILITY – RAILROADS

With respect to operations performed within 50 feet of railroad property, the definition of **insured contract** is replaced by the following:

Insured Contract means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** you with permission of the owner is not an **insured contract**;
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury or property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (2) Under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

The estates, executors, heirs, legal representatives, administrators, trustees, beneficiaries and **spouses** of any natural person **insured** or living trust shall also be insured under this policy; provided, however, coverage is afforded to such estates, executors, heirs, legal representatives, administrators, trustees, beneficiaries and **spouses** only for **claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided, however, that the **spouse** of a natural person **Named Insured**, and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses' acts, errors or omissions in the conduct of the Named Insured's business**.

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10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE

Under **COVERAGES**, **Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

Expected or Intended Injury

Bodily injury or property damage expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury or property damage** resulting from the use of reasonable force to protect persons or property.

11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER LOCATION

A. A separate Location General Aggregate Limit, equal to the amount of the General Aggregate Limit, is the most the Insurer will pay for the sum of:

1. All damages under **Coverage A**, except damages because of **bodily injury or property damage** included in the **products-completed operations hazard**; and
2. All medical expenses under **Coverage C**,

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that location. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Location General Aggregate Limit of any other location.

B. All:

1. **Damages** under **Coverage B**, regardless of the number of locations involved;
2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single location, except damages because of **bodily injury or property damage** included in the **products-completed operations hazard**; and
3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single location,

will reduce the General Aggregate Limit shown in the Declarations.

C. For the purpose of this **GENERAL AGGREGATE LIMITS OF INSURANCE - PER LOCATION** Provision, "location" means:

1. a premises the **Named Insured** owns or rents; or
2. a premises not owned or rented by any **Named Insured** at which the **Named Insured** is performing operations pursuant to a contract or written agreement. If operations at such a location have been discontinued and then restarted, or if the authorized parties deviate from plans, blueprints, designs, specifications or timetables, the location will still be deemed to be the same location.

For the purpose of determining the applicable aggregate limit of insurance, premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad shall be considered a single location.

D. The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Location General Aggregate Limit or the General Aggregate Limit, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular location.

E. 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**, regardless of the number of locations involved, will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations.

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F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this **GENERAL AGGREGATE LIMITS OF INSURANCE - PER LOCATION** Provision shall continue to apply as stipulated.

12. IN REM ACTIONS

A quasi *in rem* action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were *in personam* against the **Named Insured**.

13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

Solely with respect to **bodily injury** that arises out of a **health care incident**:

A. Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the **Insuring Agreement** is amended to replace Paragraphs 1.b.(1) and 1.b.(2) with the following:

b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured**'s primary business purpose, and only if:

- (1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.
- (2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

B. Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

the **Insured**'s actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

iii. to add the following additional exclusions:

This insurance does not apply to:

Discrimination

any actual or alleged discrimination, humiliation or harassment, including but not be limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

Dishonesty or Crime

Any actual or alleged dishonest, criminal or malicious act, error or omission.

Medicare/Medicaid Fraud

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

Services Excluded by Endorsement

Any **health care incident** for which coverage is excluded by endorsement.

C. **DEFINITIONS** is amended to:

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i. add the following definitions:

Health care incident means an act, error or omission by the **Named Insured's employees or volunteer workers** in the rendering of:

a. **professional health care services** on behalf of the **Named Insured** or

b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

Professional health care services means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

a. Physician;

b. Nurse;

c. Nurse practitioner;

d. Emergency medical technician;

e. Paramedic;

f. Dentist;

g. Physical therapist;

h. Psychologist;

i. Speech therapist;

j. Other allied health professional; or

Professional health care services does not include any services rendered in connection with human clinical trials or product testing.

ii. delete the definition of **occurrence** and replace it with the following:

Occurrence means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

iii. amend the definition of **Insured** to:

a. add the following:

- the **Named Insured's employees** are **Insureds** with respect to:

(1) **bodily injury** to a **co-employee** while in the course of the **co-employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

- the **Named Insured's volunteer workers** are **Insureds** with respect to:

(1) **bodily injury** to a **co-volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.



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b. delete Subparagraphs (a), (b), (c) and (d) of Paragraph 2.a.(1) of WHO IS AN INSURED.

D. The Other Insurance condition is amended to delete Paragraph b.(1) in its entirety and replace it with the following:

Other Insurance

b. Excess Insurance

(1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES

A. Past Joint Ventures, Partnerships, Limited Liability Companies

The following is added to WHO IS AN INSURED:

If the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

- a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense, first occurred after such termination date;
- b. the **bodily injury or property damage** first occurred after such termination date; and
- c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company.

If the joint venture, partnership or limited liability company is or was insured under a **consolidated (wrap-up) insurance program**, then such insurance will always be considered valid and collectible for the purpose of paragraph c. above. But this provision will not serve to exclude **bodily injury, property damage or personal and advertising injury** that would otherwise be covered under the **Architects, Engineers And Surveyors General Liability Extension Endorsement** provision entitled **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**. Please see that provision for the definition of **consolidated (wrap-up) insurance program**.

B. Participation In Current Professional Joint Ventures

The following is added to WHO IS AN INSURED:

The **Named Insured** is also an **Insured** for participation in a current joint venture that is not named on the Declarations, but only if such joint venture meets all of the following criteria:

- a. Each and every one of the **Named Insured**'s co-venturers are architectural, engineering or surveying firms only; and
- b. There is no other valid and collectible insurance purchased specifically to insure the joint venture.

However, the **Named Insured** is an **Insured** only for the conduct of such **Named Insured**'s business within such a joint venture. The **Named Insured** is not insured for liability arising out of the acts or omissions of other co-venturers, nor of their partners, members or employees.

C. WHO IS AN INSURED is amended to delete its last paragraph and replace it with the following:

Except as provided under this **Architects, Engineers And Surveyors General Liability Extension Endorsement** or by the attachment of another endorsement (if any), no person or organization is an **Insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a **Named Insured** in the Declarations.



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15. LEGAL LIABILITY – DAMAGE TO PREMISES / ALIENATED PREMISES / PROPERTY IN THE NAMED INSURED'S CARE, CUSTODY OR CONTROL

A. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete exclusion j. Damage to Property in its entirety and replace it with the following:

This insurance does not apply to:

j. Damage to Property

Property damage to:

- (1) Property the **Named Insured** owns, rents, or occupies, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises;
- (3) Property loaned to the **Named Insured**;
- (4) Personal property in the care, custody or control of the **Insured**;
- (5) That particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on the **Named Insured's** behalf are performing operations, if the **property damage** arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

Paragraph (2) of this exclusion does not apply if the premises are **your work**.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

Paragraphs (3) and (4) of this exclusion do not apply to **property damage** to:

- i. tools, or equipment the **Named Insured** borrows from others, nor
- ii. other personal property of others in the **Named Insured's** care, custody or control while being used in the **Named Insured's** operations away from any **Named Insured's** premises.

However, the coverage granted by this exception to Paragraphs (3) and (4) does not apply to:

- a. property at a job site awaiting or during such property's installation, fabrication, or erection;
- b. property that is **mobile equipment** leased by an **Insured**;
- c. property that is an **auto**, aircraft or watercraft;
- d. property in transit; or
- e. any portion of **property damage** for which the **Insured** has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.



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A separate limit of insurance and deductible apply to such property of others. See **LIMITS OF INSURANCE** as amended below.

B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **LIMITS OF INSURANCE**.

C. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, \$25,000 is the most the Insurer will pay under **Coverage A** for **damages** arising out of any one **occurrence** because of the sum of all **property damage** to borrowed tools or equipment, and to other personal property of others in the **Named Insured's** care, custody or control, while being used in the **Named Insured's** operations away from any **Named Insured's** premises. The Insurer's obligation to pay such **property damage** does not apply until the amount of such **property damage** exceeds \$1,000. The Insurer has the right but not the duty to pay any portion of this \$1,000 in order to effect settlement. If the Insurer exercises that right, the **Named Insured** will promptly reimburse the Insurer for any such amount.

D. Paragraph **6.**, Damage To Premises Rented To You Limit, of **LIMITS OF INSURANCE** is deleted and replaced by the following:

6. Subject to Paragraph **5.** above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **Coverage A** for **damages** because of **property damage** to any one premises while rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, including contents of such premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. The Damage To Premises Rented To You Limit is the greater of:

- a.** \$500,000; or
- b.** The Damage To Premises Rented To You Limit shown in the Declarations.

E. Paragraph **4.b.(1)(a)(ii)** of the **Other Insurance** Condition is deleted and replaced by the following:

(ii) That is property insurance for premises rented to the **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

16. LIQUOR LIABILITY

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Liquor Liability**.

This **LIQUOR LIABILITY** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

17. MEDICAL PAYMENTS

A. LIMITS OF INSURANCE is amended to delete Paragraph **7.** (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph **5.** above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

- (1)** \$15,000 unless a different amount is shown here: \$ _____; or
- (2)** the amount shown in the Declarations for Medical Expense Limit.



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B. Under **COVERAGES**, the **Insuring Agreement of Coverage C – Medical Payments** is amended to replace Paragraph 1.a.(3)(b) with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

18. NON-OWNED AIRCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and
3. the aircraft is not being used to carry persons or property for a charge.

19. NON-OWNED WATERCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph (2) of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

(2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:

- (a) less than 75 feet long; and
- (b) not being used to carry persons or property for a charge.

20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION

A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

- Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under **COVERAGES, Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

Knowing Violation of Rights of Another

Personal and advertising injury caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

- (a) the **Named Insured**; or
- (b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

This insurance does not apply to:

Employment Related Discrimination



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discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

Premises Related Discrimination

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY -DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

- Provision 1. **ADDITIONAL INSURED** of this endorsement; or
- attachment of an additional insured endorsement to this **Coverage Part**.

21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY

A. Under **COVERAGES, Coverage B -Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability**.

B. Solely for the purpose of the coverage provided by this **PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY** provision, the following changes are made to the section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**:

1. Paragraph **2.d.** is replaced by the following:
 - d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the **indemnitee**;
2. The first unnumbered paragraph beneath Paragraph **2.f.(2)(b)** is deleted and replaced by the following:

So long as the above conditions are met, attorney's fees incurred by the Insurer in the defense of that **indemnitee**, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the **indemnitee** at the Insurer's request will be paid as **defense costs**. Such payments will not be deemed to be **damages for personal and advertising injury** and will not reduce the limits of insurance.

C. This **PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B -Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

22. PROPERTY DAMAGE – ELEVATORS

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs (3), (4) and (6) of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.

B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

23. RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

WHO IS INSURED is amended to include as **Insureds** natural persons who are retired partners, members, directors or employees, but only for **bodily injury, property damage or personal and advertising injury** that results from

CNA74858XX (1-15)

Policy No: 7034261643

Insured Name: BCC Engineering, LLC

Effective Date: 08/14/2022



Architects, Engineers and Surveyors General Liability Extension Endorsement

services performed for the **Named Insured** under the **Named Insured's** direct supervision. All limitations that apply to **employees and volunteer workers** also apply to anyone qualifying as an **Insured** under this Provision.

24. SUPPLEMENTARY PAYMENTS

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

- A. Paragraph 1.b. is amended to delete the \$250 limit shown for the cost of bail bonds and replace it with a \$5,000. limit; and
- B. Paragraph 1.d. is amended to delete the limit of \$250 shown for daily loss of earnings and replace it with a \$1,000. limit.

25. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

26. WAIVER OF SUBROGATION - BLANKET

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. your work included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and
2. was executed prior to the **bodily injury, property damage or personal and advertising injury** giving rise to the claim.

27. WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS

*Note: The following provision does not apply to any public construction project in the state of Oklahoma, nor to any construction project in the state of Alaska, that is not permitted to be insured under a **consolidated (wrap-up) insurance program** by applicable state statute or regulation.*

If the endorsement **EXCLUSION – CONSTRUCTION WRAP-UP** is attached to this policy, or another exclusionary endorsement pertaining to Owner Controlled Insurance Programs (O.C.I.P.) or Contractor Controlled Insurance Programs (C.C.I.P.) is attached, then the following changes apply:

- A. The following wording is added to the above-referenced endorsement:

With respect to a **consolidated (wrap-up) insurance program** project in which the **Named Insured** is or was involved, this exclusion does not apply to those sums the **Named Insured** become legally obligated to pay as **damages** because of:

1. **Bodily injury, property damage, or personal or advertising injury** that occurs during the **Named Insured's** ongoing operations at the project, or during such operations of anyone acting on the **Named Insured's** behalf; nor
2. **Bodily injury or property damage** included within the **products-completed operations hazard** that arises out of those portions of the project that are not **residential structures**.

- B. Condition 4. **Other Insurance** is amended to add the following subparagraph 4.b.(1)(c):

This insurance is excess over:

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Effective Date: 08/14/2022



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(c) Any of the other insurance whether primary, excess, contingent or any other basis that is insurance available to the **Named Insured** as a result of the **Named Insured** being a participant in a **consolidated (wrap-up) insurance program**, but only as respects the **Named Insured's** involvement in that **consolidated (wrap-up) insurance program**.

C. DEFINITIONS is amended to add the following definitions:

Consolidated (wrap-up) insurance program means a construction, erection or demolition project for which the prime contractor/project manager or owner of the construction project has secured general liability insurance covering some or all of the contractors or subcontractors involved in the project, such as an Owner Controlled Insurance Program (O.C.I.P.) or Contractor Controlled Insurance Program (C.C.I.P.).

Residential structure means any structure where 30% or more of the square foot area is used or is intended to be used for human residency, including but not limited to:

1. single or multifamily housing, apartments, condominiums, townhouses, co-operatives or planned unit developments; and
2. the common areas and structures appurtenant to the structures in paragraph 1. (including pools, hot tubs, detached garages, guest houses or any similar structures).

However, when there is no individual ownership of units, **residential structure** does not include military housing, college/university housing or dormitories, long term care facilities, hotels or motels. **Residential structure** also does not include hospitals or prisons.

This **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

CCNA74858XX (1-15)

Insured Name: BCC Engineering, LLC

Policy No: 7034261643

Endorsement No:

Effective Date: 08/14/2022

State of Florida

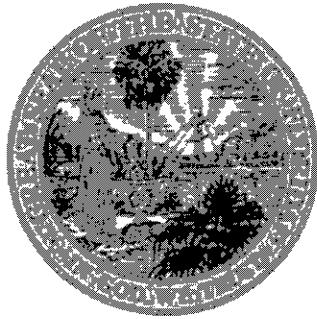
Department of State

I certify from the records of this office that BCC ENGINEERING, LLC is a limited liability company organized under the laws of the State of Florida, filed on May 8, 2019, effective March 15, 1994.

The document number of this limited liability company is L19000118381.

I further certify that said limited liability company has paid all fees due this office through December 31, 2023, that its most recent annual report was filed on January 16, 2023, and that its status is active.

*Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capital, this
the Sixteenth day of January, 2023*

A handwritten signature in black ink, appearing to read "E. H. S." or "E. H. S. S." followed by a horizontal line.

Secretary of State

Tracking Number: 6077314235CC

To authenticate this certificate, visit the following site, enter this number, and then follow the instructions displayed.

<https://services.sunbiz.org/Filings/CertificateOfStatus/CertificateAuthentication>

AGREEMENT

between

CITY OF KEY WEST

and

Artibus Design

for

GENERAL ENGINEERING SERVICES

KEY WEST, FLORIDA

This is an Agreement between: CITY OF KEY WEST, its successors and assigns, hereinafter referred to as "CITY," and Artibus Design LLC, a corporation organized under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "ENGINEER".

W I T N E S S E T H, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and ENGINEER agree as follows:

ARTICLE 1

DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

- 1.1. Agreement:** This document, Articles 1 through 7, inclusive. Other terms and conditions are included in the CITY's RFQ 22-006 ENGINEER's Response to RFQ dated November 30th, 2022, exhibits, Task Orders, and supplemental documents that are by this provision expressly incorporated herein by reference.
- 1.2. Commissioners:** Members of the City Commission with all legislative powers of the CITY vested therein.
- 1.3. ENGINEER:** The firm selected to perform the services pursuant to this Agreement.
- 1.4. Contract Administrator:** The ranking managerial employee of the CITY or some other employee expressly designated as Contract Administrator by the City Manager, who is the representative of the CITY. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.5. Contractor:** The person, firm, corporation or other entity that enters into an agreement with CITY to perform the construction work for the Task Order.
- 1.6. CITY:** City of Key West.
- 1.7. Task Order:** A detailed description of a particular service or services to be performed by ENGINEER under this Agreement.

ARTICLE 2

PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and generally to express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1.** The ENGINEER is not entitled to receive, and the CITY is not obligated to pay, any fees or expenses in excess of the amount budgeted for Task Orders authorized under this Agreement in each fiscal year (October 1-September 30) by CITY. The budgeted amount may only be modified per City Ordinance(s).
- 2.2.** The CITY has met the requirements of the Engineers' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected ENGINEER to perform the services hereunder based on the Request for Qualifications 22-006 incorporated by reference and made a part hereof and the Response to the Request for Qualifications from Engineer dated November 30th, 2022, incorporated by reference and made part of.
- 2.3.** Negotiations pertaining to the services to be performed by ENGINEER were undertaken between ENGINEER and staff selected by the Commission, and this Agreement incorporates the results of such negotiations.

ARTICLE 3

SCOPE OF SERVICES AND STANDARD OF CARE

3.1. ENGINEER's services may include but are not limited to the following in regard to the Agreement:

- 3.1.1. Civil Engineering Services
- 3.1.2. Utility Engineering Services
- 3.1.3. Solid Waste Engineering Services
- 3.1.4. Coastal Engineering Services
- 3.1.5. Structural Engineering Services

3.2. ENGINEER's services shall include comprehensive full-scale engineering, design, surveying, permit preparation, preparing contract specifications, preparing bid and proposal documents and assisting the City with technical review and ranking of the same to attain qualified contractors for work, environmental assessments, construction administration and owner project representation services relating to operation, new construction, permit modification, construction improvements, rehabilitation and or retrofits, and any other lawful professional Engineering services that the ENGINEER is qualified to provide, and that the CITY authorizes the ENGINEER to undertake in connection with this Agreement. ENGINEER shall provide all necessary, incidental and related activities and services as required.

3.3. ENGINEER and CITY acknowledge that the Scope of Services does not delineate every detail and minor work task required to be performed by ENGINEER to complete any particular task order. If, during the course of the performance of the services included in this Agreement, ENGINEER determines that work should be performed to complete the Task Order which is, in the ENGINEER's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, ENGINEER shall notify Contract Administrator in writing in a timely manner before proceeding with the work. If ENGINEER proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work. Performance of work by ENGINEER outside the originally anticipated level of effort without prior written CITY approval or modification of Task Order is at ENGINEER's sole risk.

3.4. The specific services to be provided by the ENGINEER and the compensation for such services shall be as mutually agreed to in separate Task Orders to this AGREEMENT. Each Task Order when fully executed shall become a supplement to and a part of this AGREEMENT.

- 3.4.1. Each Task Order shall be supported by appropriate cost and pricing data and such other documentation as required by the CITY.
- 3.4.2. Task Orders shall be numbered consecutively as specified by CITY. Each Task Order shall include a description of the scope of services and specified deliverables, time of completion, total estimated costs of services, and method of compensation. Additional information shall be provided to the CITY if required. Amended Task Orders shall include substantially the same information and be submitted to the CITY for approval.
- 3.4.3. The CITY may make or approve changes within the general Scope of Services in any Task Order. If such changes affect the ENGINEER's cost of or time required for performance of

Order. If such changes affect the ENGINEER's cost of or time required for performance of the services, an equitable adjustment shall be made through an amendment to the Task Order.

- 3.4.4. A Task Order may be terminated at any time, with or without cause, by the CITY upon written notice to ENGINEER. ENGINEER shall perform no further work upon receipt of this notice unless specifically authorized by the City Manager of the City of Key West. On termination, the ENGINEER shall be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the Task Order. The CITY shall not pay for anticipatory profits. The termination of this Agreement pursuant to Paragraph 7.2, hereof, shall constitute the termination of any and all outstanding Task Orders.
- 3.4.5. The ENGINEER shall begin services under any Task Order when authorized by a Purchase Order issued by the CITY and delivered to ENGINEER.
- 3.5. The CITY and ENGINEER may negotiate additional scopes of services, compensation, time of performance and other related matters for each Task Order as allowed by this Agreement. If CITY and ENGINEER cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services from another source.
- 3.6. ENGINEER shall perform the professional services under this Agreement at the level customary for competent and prudent professionals in ENGINEER'S field performing such services at the time and place where the services are provided. In the event ENGINEER does not comply with this standard, and omissions or errors are made by ENGINEER, ENGINEER will correct such work that contains errors or omissions and reimburse CITY through compensation for damages.
- 3.7. ENGINEER is required to perform the Task Orders consistent with current applicable Federal, State and City laws, codes and regulations that pertain to the Task Order. In all Task Orders, where changes to any laws, codes or regulations affecting the Task Order have a Task Ordered effective date or are anticipated to be effective at a future date, or if knowledge of anticipated changes is available to ENGINEER or any sub-consultant, ENGINEER shall present options for their use or implementation.
- 3.8. Construction Responsibility - Notwithstanding anything in this Agreement, ENGINEER shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures, precautions and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by CITY's construction contractors.
- 3.9. Estimates - Since ENGINEER has no control over local conditions, the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, ENGINEER does not guarantee the accuracy of any opinions of probable construction cost as compared to construction contractor's bids or the actual cost to the CITY.

ARTICLE 4

TERM OF AGREEMENT; TIME FOR PERFORMANCE; CONTRACTOR DAMAGES;

The term of this Agreement shall be for a period of three (3) years from the effective date of the Agreement with the option of a two (2) year renewal. The Agreement will be in effect upon execution by both parties. The Agreement may be renewed at the discretion of the CITY.

- 4.1.** ENGINEER shall perform the services described in each Task Order within the time periods specified. Each such time period shall commence from the date of the purchase order issued for such services.
- 4.2.** ENGINEER must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent Task Order. Prior to granting approval for ENGINEER to proceed to a subsequent Task Order, the Contract Administrator may, at his or her sole option, require ENGINEER to submit any deliverables/documents for the Contract Administrator's review.
- 4.3.** In the event ENGINEER is unable to complete the above services because of delays resulting from untimely review by CITY or other governmental authorities having jurisdiction over the Task Order, and such delays are not the fault of ENGINEER, or because of delays which were caused by factors outside the control of ENGINEER, CITY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of ENGINEER to notify CITY within 10 days in writing whenever a delay in approval by a governmental agency, including CITY, is anticipated or experienced, and to inform the Contract Administrator of all facts and details related to the delay.
- 4.4.** In the event the Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY or if Contractor is granted an extension of time beyond said substantial completion date, and ENGINEER's services are extended beyond the substantial completion date, through no fault of ENGINEER, ENGINEER shall be compensated in accordance with Article 5 for all services rendered by ENGINEER beyond the substantial completion date.
- 4.5.** In the event Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY, and the failure to substantially complete is caused in whole or in part by a negligent act, error or omission of ENGINEER, then ENGINEER shall pay to CITY its proportional share of any claim or damages to Contractor or CITY arising out of the delay. This provision shall not affect the rights and obligations of either party as set forth in Paragraph 7.8, INDEMNIFICATION OF CITY.

ARTICLE 5

COMPENSATION AND METHOD OF PAYMENT

5.1. AMOUNT AND METHOD OF COMPENSATION

The types of compensation methods, which shall be used to pay for the ENGINEER's services, are limited to the following:

5.1.1. Lump sum payment/Not-to-Exceed, which includes compensation for all the ENGINEER'S salaries, general overhead costs, direct expenses, and profit.

5.1.1.1. If Work timing deviates from the assumed schedule for causes beyond ENGINEER's control, ENGINEER and/or the CITY reserves the right to request renegotiation of those portions of the lump sum affected by the time change. During construction contract administration, if tasked, it is agreed by both parties that whether construction is completed earlier or later, that a proportional part of the compensation will be adjusted and either given to ENGINEER for additional work or deleted from the amount owed ENGINEER for less time required.

5.1.1.2. In the event of a change of scope, CITY shall authorize in writing an appropriate decrease or increase in compensation.

5.1.1.3. Monthly invoicing will be based on an estimate of the percent of work completed at the end of the preceding month.

5.1.1.4. The ENGINEER shall submit wage rates and other actual unit costs supporting the compensation. The ENGINEER shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.

5.1.2. Cost Reimbursable-Per Diem (Time and Expenses)

5.1.2.1. Per diem rates are those hourly or daily rates charged for work performed on the WORK by ENGINEER's employees of the indicated classifications and include all salaries, overheads, and profit, but do not include allowances for Direct Expenses. These rates are subject to annual adjustments based on the Consumer Price Index Urban U.S. City Average All Items U.S. Department of Labor Bureau of Labor Statistics.

5.1.2.2. Hourly rates for the contract (ENGINEER AND Sub-consultants): See attached Exhibit A.

5.1.2.3. ENGINEER and Sub-consultants allowed annual wage adjustment on the Agreement effective anniversary dates shall not exceed the Data Resource Institute (DRI) forecast of wage and price escalation (the U.S. Bureau of Labor Statistics [BLS] Employment Cost Index [ECI] for Private Industry)

5.1.2.4. A budgetary amount will be established for each Task Order. This budgetary amount shall not be exceeded unless written approval is provided by the CITY. ENGINEER shall make reasonable efforts to complete the work within the budget and will keep CITY informed of progress toward that end so that the budget or work effort can be adjusted if found necessary.

5.1.2.5. ENGINEER is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CITY obligated to pay ENGINEER beyond these limit

5.1.2.6. When any budget has been increased, ENGINEER's excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increased.

5.2. REIMBURSABLE EXPENSES

5.2.1.1. Direct non-salary expenses, entitled Reimbursable Expenses, directly attributable to the Work shall be charged at actual cost, and shall be limited to the following:

5.2.1.2. Identifiable transportation expenses in connection with the Work, subject to the limitations of Section 112.061, Florida Statutes. There shall be no mileage reimbursement for travel within the City of Key West. Transportation expenses to locations outside the City area or from locations outside the City will not be reimbursed unless specifically pre-authorized in writing by the Contract Administrator.

5.2.1.3. Identifiable per diem, meals and lodgings, taxi fares, automobile rental, and miscellaneous travel-connected expenses for ENGINEER's personnel subject to the limitations of Section 112.061 Florida Statutes. Meals for class C travel inside the City of Key West will not be reimbursed. Lodging will be reimbursed only for room rates equivalent to Hampton Inn or Best Western located within the City of Key West city limits.

5.2.1.4. Identifiable communication expenses approved by Contract Administrator, long distance telephone, courier and express mail utilized to render the services required by this Agreement.

5.2.1.5. Cost of printing, reproduction or photography that is required by or of ENGINEER to deliver services set forth in this Agreement.

5.2.1.6. Identifiable testing costs approved by Contract Administrator.

5.2.1.7. All permit fees paid to regulatory agencies for approvals directly attributable to the Work. These permit fees do not include those permits required for the Contractor.

5.2.2. It is acknowledged and agreed to by ENGINEER that the dollar limitation set forth in paragraphs 5.2.1.1 through 5.2.1.7 is a limitation upon, and describes the maximum extent of, CITY's obligation to reimburse ENGINEER for direct, non-salary expenses. If CITY or Contract Administrator requests ENGINEER to incur expenses not contemplated in the amount for Reimbursable Expenses, ENGINEER shall notify Contract

in writing before incurring such expenses. Any such expenses shall be reviewed and approved by CITY prior to incurring such expenses.

5.2.3. All sub-consultants' hourly rates shall be billed in the actual amount paid by ENGINEER. Sub-consultant Reimbursable Expenses are limited to the items in Paragraphs 5.2.1.1 through 5.2.1.7 described above when the sub-consultant's agreement provides for reimbursable expenses.

5.3. METHOD OF BILLING

5.3.1. Lump Sum Compensation

ENGINEER shall submit billings identifying type of work completed on a monthly basis in a timely manner. These billings shall identify the nature of the work performed and the estimated percent of work accomplished. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, ENGINEER shall provide backup for past and current invoices that record hours, personnel, and expense costs on a task basis, so that total hours and costs by task may be determined.

5.3.2. Cost Reimbursable-Per Diem (Time and Expenses) Compensation

ENGINEER shall submit billings identifying the type of work completed on a monthly basis in a timely manner for all personnel hours and reimbursable expenses attributable to the Work. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category and name of the individuals performing same. Billings shall itemize and summarize reimbursable expenses by category and identify same as to the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for reimbursable expenses, a copy of the approval shall accompany the billing for such reimbursable. The statement shall show a summary of salary costs and reimbursable expenses with accrual of the total and credits for portions paid previously. External reimbursable expenses and sub-consultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain the purchase order number or other identifier that clearly indicates the expense is identifiable to the Work. Subsequent addition of the identifier to the invoice or receipt by the ENGINEER is not acceptable except for meals and travel expenses. Appropriate ENGINEER's cost accounting forms with a summary of charges must document internal expenses by category. When requested, ENGINEER shall provide backup for past and current invoices that records hours and rates by employee category, reimbursable expenses by category, and subcontractor fees on a task basis, so that total hours and costs by task may be determined.

5.3.3. If requested, ENGINEER shall provide copies of past paid invoices to any subcontractor or sub-consultant prior to receiving payment. CITY reserves the right to pay any subcontractor or sub-consultant, if ENGINEER has not paid them timely and the services of the subcontractor or sub-consultant are necessary to complete the Work.

5.4. METHOD OF PAYMENT

5.4.3. CITY shall pay ENGINEER within forty-five (45) calendar days from receipt of ENGINEER's proper invoice with documentation as provided above.

5.4.3. In the event ENGINEER has utilized a Sub-consultant to perform the Work, ENGINEER will be required to provide documentation that Sub-consultant and Sub-consultants of Sub-consultants have been paid prior to payment being made to ENGINEER.

5.4.3. Payment will be made to ENGINEER

at:

Address: 3710 N Roosevelt Blvd,
Key West, FL 33040

ARTICLE 6

CITY 'S RESPONSIBILITIES

- 6.1.** CITY shall assist ENGINEER by placing at ENGINEER's disposal all information CITY has available pertinent to the Task Order including previous reports and any other data relative to design or construction of the Task Order.
- 6.2.** CITY shall arrange for access to, and make all provisions for, ENGINEER to enter upon public and private property as required for ENGINEER to perform its services.
- 6.3.** CITY shall review the ENGINEER's itemized deliverables/documents identified in the Task Orders and respond in writing with any comment within the time set forth in the Task Order or within a reasonable time.
- 6.4.** CITY shall give prompt written notice to ENGINEER whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services or any defect in the work of any Contract.

ARTICLE 7

MISCELLANEOUS

7.1. OWNERSHIP OF DOCUMENTS

All finished or unfinished documents, data, data matrices and calculations generated and used to evaluate and compute the construction or material requirements for the Task Order, studies, surveys, drawings, maps, models, photographs and reports prepared or provided by ENGINEER in connection with this Agreement, whether in hard copy or electronic form, shall become the property of CITY, whether the Task Order for which they are made is completed or not. If applicable, CITY may withhold any payments then due to ENGINEER until ENGINEER complies with the provisions of this Article. ENGINEER is not responsible for damages caused by the unauthorized re- use by others of any of the materials for another Task Order.

7.2. TERMINATION

- 7.2.1. This Agreement may be terminated with or without cause by CITY at any time.
- 7.2.2. Notice of termination shall be provided in accordance with paragraph 7.12 NOTICES of this Agreement.
- 7.2.3. In the event this Agreement is terminated, ENGINEER shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 7.1 of this Agreement are provided to the CITY. Upon being notified of CITY's election to terminate, ENGINEER shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall CITY make payment of profit for services that have not been performed.

7.3. AUDIT RIGHT AND RETENTION OF RECORDS

- 7.3.1. CITY shall have the right to audit the books, records, and accounts of ENGINEER that are related to any Task Order. ENGINEER shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Task Order.

7.3.2. ENGINEER shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to ENGINEER's records, ENGINEER shall comply with all requirements thereof; however, ENGINEER shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

**7.4. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY,
AMERICANS WITH DISABILITIES ACT, AND EQUAL BENEFITS FOR
DOMESTIC PARTNERS**

7.4.1. ENGINEER shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.

7.4.2. ENGINEER's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, gender identity or expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor that cannot be lawfully or appropriately used as a basis for service delivery. ENGINEER shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, gender identity or expression, marital status, political affiliation, or physical or mental disability. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeships), and accessibility.

7.4.3. Engineer shall comply with City Ordinance Sec. 2-799 Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

7.5. PUBLIC ENTITY CRIMES ACT

7.5.1. ENGINEER represents that the execution of this Agreement shall not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, engineer or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or engineer under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in being barred from CITY's competitive procurement activities.

7.5.2. In addition to the foregoing, ENGINEER further represents that there has been no determination, based on an audit, that it or any sub-consultant, has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether ENGINEER has been placed on the convicted vendor list.

7.5.3. ENGINEER shall promptly notify CITY if it or any subcontractor or sub-consultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

7.6. SUB-CONSULTANTS

ENGINEER may use the sub-consultants identified in the proposal that was a material part of the selection of ENGINEER to provide the services under this Agreement. The CITY reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultants in order to make determination as to the capability of the sub-consultant to perform properly under this Contract. The CITY's acceptance of a sub-consultant shall not be unreasonably withheld. ENGINEER shall obtain written approval of Contract Administrator prior to changing or adding to the list of sub-consultants. The list of sub-consultants submitted and currently approved is as follows:

a. _____
b. _____

- c. _____
- d. _____

Hourly rates for such said Sub-consultants are as on attached Exhibit A.

7.7. ASSIGNMENT AND PERFORMANCE

- 7.7.1. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and ENGINEER shall not subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 7.6.
- 7.7.2. ENGINEER represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to CITY's satisfaction for the agreed compensation.
- 7.7.3. ENGINEER shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of ENGINEER's performance and all interim and final product(s) provided to or on behalf of CITY shall be in accordance with the standard of care set forth in Paragraph 3.6.
- 7.7.4. ENGINEER shall not change or replace overall project manager identified in the ENGINEER's response to the RFQ without the Contract Administrator's prior written approval.

7.8. INDEMNIFICATION OF CITY

- 7.8.1. To the fullest extent permitted by law, the ENGINEER expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnities") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the ENGINEER, its Subcontractors or persons employed or utilized by them in the performance of the Contract. Claims by indemnities for indemnification shall be limited to the amount of ENGINEER's insurance or \$1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.
- 7.8.2. The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the ENGINEER under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the ENGINEER or of any

third party to whom ENGINEER may subcontract a part or all of the Work. This indemnification shall continue beyond the date of completion of the Work.

7.9. INSURANCE

7.9.1. ENGINEER is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for workers' compensation, public liability, and property damage liability insurance, and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts to prevail if greater than minimum amounts indicated. Notwithstanding any other provision of the Contract, the ENGINEER shall provide the minimum limits of liability insurance coverage as follows:

Auto Liability	\$1,000,000	Combined Single Limit
General Liability	\$2,000,000	Aggregate (Per Project)
	\$2,000,000	Products Aggregate
	\$1,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$ 300,000	Fire Damage/Legal
Professional Liability	\$2,000,000	Per Claim / Aggregate

7.9.2. ENGINEER shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as an additional insured on all policies— excepting Professional Liability—on a PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its equivalent, (combination of CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations, is acceptable) including a waiver of subrogation clause in favor of City of Key West on all policies. ENGINEER will maintain the Professional Liability, General Liability, and Umbrella Liability insurance coverages summarized above with coverage continuing in full force including the additional insured endorsement until at least 3 years beyond completion and delivery of the work contracted herein.

7.9.3. Notwithstanding any other provision of the Contract, the ENGINEER shall maintain complete worker's compensation coverage for each and every employee, principal, officer, representative, or agent of the ENGINEER who is performing any labor, services, or material under the Contract. Further, ENGINEER shall additionally maintain the following minimum limits of coverage:

Bodily Injury Each Accident	\$1,000,000
Bodily Injury by Disease Each Employee	\$1,000,000
Bodily Injury by Disease Policy Limit	\$1,000,000

7.9.4. If the work is being done on or near a navigable waterway, ENGINEER's workers

compensation policy shall be endorsed to provide USL&H Act (WC 00 01 06 A) and Jones Act (WC 00 02 01 A) coverage if specified by the City of Key West. ENGINEER shall provide the City of Key West with a Certificate of Insurance verifying compliance with the workers' compensation coverage as set forth herein and shall provide as often as required by the City of Key West such certification which shall also show the insurance company, policy number, effective and expiration date, and the limits of worker's compensation coverage under each policy.

- 7.9.5. ENGINEER's insurance policies shall be endorsed to give 30 days written notice to the City of Key West in the event of cancellation or material change, using form CG 02 24, or its equivalent.
- 7.9.6. Certificates of Insurance submitted to the City of Key West will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.
- 7.9.7. ENGINEER will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. ENGINEER will notify City of Key West immediately by telephone at (305) 809-3964 any accident or injury to anyone that occurs on the jobsite and is related to any of the work being performed by the ENGINEER.
- 7.9.8. It shall be the responsibility of the Engineer to ensure that all sub-consultants/subcontractors comply with the same insurance requirements as is required of Engineer.
- 7.9.9. In addition, it is understood if at any time any of the policies required by the City shall become unsatisfactory to the City as to form or substance, or if a company issuing any such policy shall become unsatisfactory to the City, the Engineer shall obtain a new policy, submit the same to the City for approval and submit a certificate of insurance as which may be required by the contract. It is understood that upon failure of the Engineer to furnish, deliver and maintain such insurance as required above, the contract at the election of the City may be declared suspended, discontinued or terminated. Further, failure of the Engineer to take out and/or maintain any required insurance shall not relieve the Engineer from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the Engineer concerning indemnification.

7.10. REPRESENTATIVE OF CITY AND ENGINEER

- 7.10.1. The parties recognize that questions in the day-to-day conduct of the Task Order will arise. The Contract Administrator, upon ENGINEER's request, shall advise ENGINEER in writing of one (1) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Task Order shall be addressed.
- 7.10.2. ENGINEER shall inform the Contract Administrator in writing of

ENGINEER's representative to whom matters involving the conduct of the Task Order shall be addressed.

7.11. ALL PRIOR AGREEMENTS SUPERSEDED

- 7.11.1. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document and the exhibits attached. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.
- 7.11.2. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

7.12. NOTICES

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR CITY OF KEY WEST:

City of Key West
1300 White Street
Key West, FL 33040

FOR ENGINEER:

Contact Name: Serge Mashtakov, PE
Address: 3710 N Roosevelt Blvd,
Key West, FL 33040

7.13. TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by ENGINEER shall act as the execution of a truth-in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of

contracting. The original contract price for any Task Order and any additions thereto shall be adjusted to exclude any significant sums, by which CITY determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

7.14. INTERPRETATION

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence or paragraph where they appear, unless the context otherwise requires. Whenever reference is made to a Paragraph or Article of this Agreement, such reference is to the Paragraph or Article as a whole, including all of the subsections of such Paragraph, unless the reference is made to a particular subsection or subparagraph of such Paragraph or Article.

7.15. ENGINEER'S STAFF

- 7.15.1. ENGINEER shall provide the key staff identified in their proposal for Task Order as long as such key staffs are in ENGINEER's employment.
- 7.15.2. ENGINEER shall obtain prior written approval of Contract Administrator to change key staff. ENGINEER shall provide Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator shall be reasonable in evaluating key staff qualifications.
- 7.15.3. If Contract Administrator desires to request removal of any of ENGINEER's staff, Contract Administrator shall first meet with ENGINEER and provide reasonable justification for said removal.
- 7.15.4. The CITY reserves the right to approve the members of the Consulting Team and the roles they will undertake in the assignment. The CITY's acceptance of a team member shall not be unreasonably withheld.
- 7.15.5. Each assignment issued under this Agreement by the CITY to the Engineer, the Engineer will at the CITY's request, disclose the role, qualifications and hourly rate of each individual working on the assignment.
- 7.15.6. The CITY reserves the right to require replacement of any of the members of the Consulting Team. Any proposed addition or change of members of the Consulting Team initiated by the Engineer must obtain the CITY Representative's prior written approval.

- 7.15.7. In the event of the death, incapacity or termination of employment of any member of the Consulting Team before Completion of the Services, the Engineer shall at its own expense and as soon as reasonably practicable arrange to substitute or replace the individual member concerned.
- 7.15.8. The Engineer shall ensure that the substitute or replacement is no less qualified in terms of relevant experience and qualifications than the outgoing individual and is available at the relevant time to act as such replacement or substitute. The Engineer shall without delay forward curriculum vitae of the proposed substitute or replacement to the CITY. The deployment of such substitute or replacement shall be subject to the CITY's consent.
- 7.15.9. The Engineer shall solely be responsible for all direct, indirect and consequential costs or losses that may arise from the substitution or replacement of members of the Consulting Team.

7.16. INDEPENDENT CONTRACTOR

ENGINEER is an independent contractor under this Agreement. Services provided by ENGINEER shall be subject to the supervision of ENGINEER. In providing the services, ENGINEER or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY, nor shall they accrue any of the rights or benefits of a CITY employee. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.17. THIRD PARTY BENEFICIARIES

Neither ENGINEER nor CITY intend directly or substantially to benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. No subcontractor or sub-consultant, whether named or unnamed, shall be a third party beneficiary of this Agreement.

7.18. CONFLICTS

- 7.18.1. Neither ENGINEER nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with ENGINEER's loyal and conscientious exercise of judgment related to its performance under this Agreement.
- 7.18.2. ENGINEER agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal

proceeding.

7.18.3. In the event ENGINEER is permitted to use sub-consultants to perform any services required by this Agreement, ENGINEER agrees to prohibit such sub-consultants from having any conflicts as within the meaning of this section, and shall so notify them in writing.

7.19. CONTINGENCY FEE

ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for ENGINEER, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for ENGINEER, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

7.20. WAIVER OF BREACH AND MATERIALITY

7.20.1. Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.20.2. CITY and ENGINEER agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

7.21. COMPLIANCE WITH LAWS

ENGINEER shall comply with federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement applicable at the time the scope of services was drafted for this agreement. In addition, at the time each Task Order is executed, any revisions to applicable federal, state, and local laws, codes, ordinances, rules and regulations shall apply.

7.22. SEVERABILITY

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or ENGINEER elects to terminate this Agreement.

7.23. JOINT PREPARATION

7.23. JOINT PREPARATION

Preparation of this Agreement has been a joint effort of CITY and ENGINEER and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

7.24. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.25. APPLICABLE LAW AND VENUE

The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, arbitration or any other legal proceeding shall be Monroe County, Florida.

7.26. INCORPORATION BY REFERENCE

The attached exhibits are incorporated into and made a part of this Agreement:

Exhibit A – ENGINEER/Sub-consultants' Hourly Rates

7.27. COUNTERPARTS

This Agreement may be executed in three (3) counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the
respective dates under each signature.

By: CITY OF KEY WEST



Patti McLaughlin, City Manager

15th day of March, 2023

By: ENGINEER



(Signature)

Serge Mashtakov, PE

(Print Name and Title)

27 day of February, 2023

Attest:



Cheryl Smith, City Clerk

 day of March, 2023

Attest:



(Signature)

Oleh Ambroziak

(Print Name and Title)

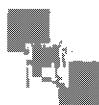
27 day of February, 2023

Exhibit A

Hourly Fee Schedule

Company Name: _____ **Date:** _____

Position Title	Hourly Rate
-----------------------	--------------------

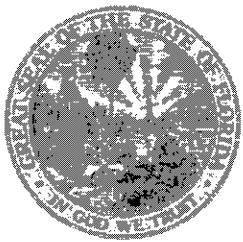


Schedule of Hourly Rates

Title or work description	Hourly Rate
Licensed Professional Engineer (P.E.)	\$180.00
Project Manager	\$156.00
Certified Engineer Intern (E.I.)	\$130.00
Structural Inspector (non P.E.)	\$130.00
Expert Witness (Legal)	\$350.00
Inspector (non P.E.)	\$105.00
Engineering Technician	\$105.00
Drafting Technician	\$105.00
Clerical	\$78.00

Schedule of Reimbursable Expenses

Item description	Rate
Large Format Prints (Arch-D, 24"x36") Color	\$35.00/Each
Large Format Prints (Arch-D, 24"x36") Black&White	\$15.00/Each
Prints (Tabloid, 11"x17") Color	\$5.00/Each
Prints (Tabloid, 11"x17") Black&White	\$0.75/Each
Prints (8.5"x11") Color	\$0.50/Each
Prints (8.5"x11") Black&White	\$0.25/Each
Binding Large Format	\$50.00/Each
Binding Tabloid and Letter Format	\$20.00/Each
Mailing and Shipping Expanses	Cost + 20%
Travel Expanses (outside Monroe County)	Cost + 20%
Misc. (Discs, Flash Drives, etc.)	Cost + 20%



Ron DeSantis, Governor

Melanie S. Griffin, Secretary



FBPE
FLORIDA BOARD OF
PROFESSIONAL ENGINEERS

STATE OF FLORIDA

BOARD OF PROFESSIONAL ENGINEERS

THE PROFESSIONAL ENGINEER HEREIN IS LICENSED UNDER THE
PROVISIONS OF CHAPTER 471, FLORIDA STATUTES

MASHTAKOV, SERGE

3710 N ROOSEVELT BLVD
KEY WEST FL 33040

LICENSE NUMBER: PE71480

EXPIRATION DATE: FEBRUARY 28, 2025

Always verify licenses online at MyFloridaLicense.com



Do not alter this document in any form.

This is your license. It is unlawful for anyone other than the licensee to use this document.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

01/31/23

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

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

PRODUCER	CONTACT NAME: TKJ PHONE (A/C, No, Ext): (813)600-5379 E-MAIL: tjohnson@floridadesigninsurance.com	FAX (A/C, No):
FLORIDA DESIGN INSURANCE LLC 4707 W Gandy Blvd Ste 15 Tampa, FL 33611	INSURER(S) AFFORDING COVERAGE INSURER A: Evanston Insurance Company	NAIC # 35378
INSURED	INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
Artibus Construction LLC 3710 N Roosevelt Blvd Key West, FL 33040		

COVERAGE	CERTIFICATE NUMBER:	REVISION NUMBER:				
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR. W/IN	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		Y Y 3AA632834	01/05/23	01/05/24	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:					
AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$	
UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$	
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A			PER STATUTE \$ E.I. EACH ACCIDENT \$ E.I. DISEASE - EA EMPLOYEE \$ E.I. DISEASE - POLICY LIMIT \$	

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

CERTIFICATE HOLDER	CANCELLATION
City of Key West 1300 White Street Key West, FL 33040	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>Jammy K. Johnson</i>

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MONROE COUNTY BUSINESS TAX RECEIPT
EXPIRES SEPTEMBER 30, 2023

RECEIPT# 46110-112888

Business Name: ARTIBUS DESIGN LLC

Owner Name: SERGE MASHTAKOV

Mailing Address:

3710 PEARLMAN TERR
KEY WEST, FL 33040

Business Location: 3710 N ROOSEVELT BLVD
KEY WEST, FL 33040

Business Phone: 305-304-3512

Business Type: PROFESSIONAL (ENGINEERING CONSUL

1

STATE LICENSE: 71480

Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
30.00	0.00	30.00	0.00	0.00	0.00	30.00

Paid 000-21-00039811 07/29/2022 30.00

CITY OF KEY WEST, FLORIDA
Business Tax Receipt

This Document is a business tax receipt
Holder must meet all City zoning and use provisions.
P.O. Box 1409, Key West, Florida 33040 (305) 809-3955

Business Name: ARTIBUS DESIGN LLC
Location Addr: 3710 N ROOSEVELT BLVD
Lic NBR/Class: LIC2020-000557 STATE LICENSED PROFESSIONAL
Issued Date: 8/19/2022 Expiration Date: September 30, 2023

ATTORNEY, PHYSICIAN OR OTHER STATE LICENSED
PROFESSIONAL

Comments: ENGINEERING SERVICES

Restrictions: FBPE: PE71480 (2/28/23)

ARTIBUS DESIGN LLC
3710 N ROOSEVELT

KEY WEST, FL 33040

This document must be prominently displayed.

ARTIBUS DESIGN LLC

AGREEMENT

between

CITY OF KEY WEST

and

Perez Engineering

for

GENERAL ENGINEERING SERVICES

KEY WEST, FLORIDA

This is an Agreement between: CITY OF KEY WEST, its successors and assigns, hereinafter referred to as "CITY," and Perez Engineering & Development, Inc., a corporation organized under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "ENGINEER".

WITNESSETH, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and ENGINEER agree as follows:

ARTICLE 1

DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

- 1.1. Agreement:** This document, Articles 1 through 7, inclusive. Other terms and conditions are included in the CITY's RFQ 22-006 ENGINEER's Response to RFQ dated December 7th, 2022 exhibits, Task Orders, and supplemental documents that are by this provision expressly incorporated herein by reference.
- 1.2. Commissioners:** Members of the City Commission with all legislative powers of the CITY vested therein.
- 1.3. ENGINEER:** The firm selected to perform the services pursuant to this Agreement.
- 1.4. Contract Administrator:** The ranking managerial employee of the CITY or some other employee expressly designated as Contract Administrator by the City Manager, who is the representative of the CITY. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.5. Contractor:** The person, firm, corporation or other entity that enters into an agreement with CITY to perform the construction work for the Task Order.
- 1.6. CITY:** City of Key West.
- 1.7. Task Order:** A detailed description of a particular service or services to be performed by ENGINEER under this Agreement.

ARTICLE 2

PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and generally to express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1. The ENGINEER is not entitled to receive, and the CITY is not obligated to pay, any fees or expenses in excess of the amount budgeted for Task Orders authorized under this Agreement in each fiscal year (October 1-September 30) by CITY. The budgeted amount may only be modified per City Ordinance(s).
- 2.2. The CITY has met the requirements of the Engineers' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected ENGINEER to perform the services hereunder based on the Request for Qualifications 22-006 incorporated by reference and made a part hereof and the Response to the Request for Qualifications from Engineer dated December 7th, 2022 incorporated by reference and made part of.
- 2.3. Negotiations pertaining to the services to be performed by ENGINEER were undertaken between ENGINEER and staff selected by the Commission, and this Agreement incorporates the results of such negotiations.

ARTICLE 3

SCOPE OF SERVICES AND STANDARD OF CARE

3.1. ENGINEER's services may include but are not limited to the following in regard to the Agreement:

- 3.1.1. Civil Engineering Services
- 3.1.2. Utility Engineering Services
- 3.1.3. Solid Waste Engineering Services
- 3.1.4. Coastal Engineering Services
- 3.1.5. Structural Engineering Services

3.2. ENGINEER's services shall include comprehensive full-scale engineering, design, surveying, permit preparation, preparing contract specifications, preparing bid and proposal documents and assisting the City with technical review and ranking of the same to attain qualified contractors for work, environmental assessments, construction administration and owner project representation services relating to operation, new construction, permit modification, construction improvements, rehabilitation and or retrofits, and any other lawful professional Engineering services that the ENGINEER is qualified to provide, and that the CITY authorizes the ENGINEER to undertake in connection with this Agreement. ENGINEER shall provide all necessary, incidental and related activities and services as required.

3.3. ENGINEER and CITY acknowledge that the Scope of Services does not delineate every detail and minor work task required to be performed by ENGINEER to complete any particular task order. If, during the course of the performance of the services included in this Agreement, ENGINEER determines that work should be performed to complete the Task Order which is, in the ENGINEER's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, ENGINEER shall notify Contract Administrator in writing in a timely manner before proceeding with the work. If ENGINEER proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work. Performance of work by ENGINEER outside the originally anticipated level of effort without prior written CITY approval or modification of Task Order is at ENGINEER's sole risk.

3.4. The specific services to be provided by the ENGINEER and the compensation for such services shall be as mutually agreed to in separate Task Orders to this AGREEMENT. Each Task Order when fully executed shall become a supplement to and a part of this AGREEMENT.

3.4.1. Each Task Order shall be supported by appropriate cost and pricing data and such other documentation as required by the CITY.

3.4.2. Task Orders shall be numbered consecutively as specified by CITY. Each Task Order shall include a description of the scope of services and specified deliverables, time of completion, total estimated costs of services, and method of compensation. Additional information shall be provided to the CITY if required. Amended Task Orders shall include substantially the same information and be submitted to the CITY for approval.

3.4.3. The CITY may make or approve changes within the general Scope of Services in any Task Order. If such changes affect the ENGINEER's cost of or time required for performance of

Order. If such changes affect the ENGINEER's cost of or time required for performance of the services, an equitable adjustment shall be made through an amendment to the Task Order.

- 3.4.4. A Task Order may be terminated at any time, with or without cause, by the CITY upon written notice to ENGINEER. ENGINEER shall perform no further work upon receipt of this notice unless specifically authorized by the City Manager of the City of Key West. On termination, the ENGINEER shall be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the Task Order. The CITY shall not pay for anticipatory profits. The termination of this Agreement pursuant to Paragraph 7.2, hereof, shall constitute the termination of any and all outstanding Task Orders.
- 3.4.5. The ENGINEER shall begin services under any Task Order when authorized by a Purchase Order issued by the CITY and delivered to ENGINEER.
- 3.5. The CITY and ENGINEER may negotiate additional scopes of services, compensation, time of performance and other related matters for each Task Order as allowed by this Agreement. If CITY and ENGINEER cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services from another source.
- 3.6. ENGINEER shall perform the professional services under this Agreement at the level customary for competent and prudent professionals in ENGINEER'S field performing such services at the time and place where the services are provided. In the event ENGINEER does not comply with this standard, and omissions or errors are made by ENGINEER, ENGINEER will correct such work that contains errors or omissions and reimburse CITY through compensation for damages.
- 3.7. ENGINEER is required to perform the Task Orders consistent with current applicable Federal, State and City laws, codes and regulations that pertain to the Task Order. In all Task Orders, where changes to any laws, codes or regulations affecting the Task Order have a Task Order effective date or are anticipated to be effective at a future date, or if knowledge of anticipated changes is available to ENGINEER or any sub-consultant, ENGINEER shall present options for their use or implementation.
- 3.8. Construction Responsibility - Notwithstanding anything in this Agreement, ENGINEER shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures, precautions and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by CITY's construction contractors.
- 3.9. Estimates - Since ENGINEER has no control over local conditions, the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, ENGINEER does not guarantee the accuracy of any opinions of probable construction cost as compared to construction contractor's bids or the actual cost to the CITY.

ARTICLE 4

TERM OF AGREEMENT; TIME FOR PERFORMANCE; CONTRACTOR DAMAGES:

The term of this Agreement shall be for a period of three (3) years from the effective date of the Agreement with the option of a two (2) year renewal. The Agreement will be in effect upon execution by both parties. The Agreement may be renewed at the discretion of the CITY.

- 4.1.** ENGINEER shall perform the services described in each Task Order within the time periods specified. Each such time period shall commence from the date of the purchase order issued for such services.
- 4.2.** ENGINEER must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent Task Order. Prior to granting approval for ENGINEER to proceed to a subsequent Task Order, the Contract Administrator may, at his or her sole option, require ENGINEER to submit any deliverables/documents for the Contract Administrator's review.
- 4.3.** In the event ENGINEER is unable to complete the above services because of delays resulting from untimely review by CITY or other governmental authorities having jurisdiction over the Task Order, and such delays are not the fault of ENGINEER, or because of delays which were caused by factors outside the control of ENGINEER, CITY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of ENGINEER to notify CITY within 10 days in writing whenever a delay in approval by a governmental agency, including CITY, is anticipated or experienced, and to inform the Contract Administrator of all facts and details related to the delay.
- 4.4.** In the event the Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY or if Contractor is granted an extension of time beyond said substantial completion date, and ENGINEER's services are extended beyond the substantial completion date, through no fault of ENGINEER, ENGINEER shall be compensated in accordance with Article 5 for all services rendered by ENGINEER beyond the substantial completion date.
- 4.5.** In the event Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY, and the failure to substantially complete is caused in whole or in part by a negligent act, error or omission of ENGINEER, then ENGINEER shall pay to CITY its proportional share of any claim or damages to Contractor or CITY arising out of the delay. This provision shall not affect the rights and obligations of either party as set forth in Paragraph 7.8, INDEMNIFICATION OF CITY.

ARTICLE 5

COMPENSATION AND METHOD OF PAYMENT

5.1. AMOUNT AND METHOD OF COMPENSATION

The types of compensation methods, which shall be used to pay for the ENGINEER's services, are limited to the following:

5.1.1. Lump sum payment/Not-to-Exceed, which includes compensation for all the ENGINEER'S salaries, general overhead costs, direct expenses, and profit.

5.1.1.1. If Work timing deviates from the assumed schedule for causes beyond ENGINEER's control, ENGINEER and/or the CITY reserves the right to request renegotiation of those portions of the lump sum affected by the time change. During construction contract administration, if tasked, it is agreed by both parties that whether construction is completed earlier or later, that a proportional part of the compensation will be adjusted and either given to ENGINEER for additional work or deleted from the amount owed ENGINEER for less time required.

5.1.1.2. In the event of a change of scope, CITY shall authorize in writing an appropriate decrease or increase in compensation.

5.1.1.3. Monthly invoicing will be based on an estimate of the percent of work completed at the end of the preceding month.

5.1.1.4. The ENGINEER shall submit wage rates and other actual unit costs supporting the compensation. The ENGINEER shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.

5.1.2. Cost Reimbursable-Per Diem (Time and Expenses)

5.1.2.1. Per diem rates are those hourly or daily rates charged for work performed on the WORK by ENGINEER's employees of the indicated classifications and include all salaries, overheads, and profit, but do not include allowances for Direct Expenses. These rates are subject to annual adjustments based on the Consumer Price Index Urban U.S. City Average All Items U.S. Department of Labor Bureau of Labor Statistics.

5.1.2.2. Hourly rates for the contract (ENGINEER AND Sub-consultants): See attached Exhibit A.

5.1.2.3. ENGINEER and Sub-consultants allowed annual wage adjustment on the Agreement effective anniversary dates shall not exceed the Data Resource Institute (DRI) forecast of wage and price escalation (the U.S. Bureau of Labor Statistics [BLS] Employment Cost Index [ECI] for Private Industry)

5.1.2.4. A budgetary amount will be established for each Task Order. This budgetary amount shall not be exceeded unless written approval is provided by the CITY. ENGINEER shall make reasonable efforts to complete the work within the budget and will keep CITY informed of progress toward that end so that the budget or work effort can be adjusted if found necessary.

5.1.2.5. ENGINEER is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CITY obligated to pay ENGINEER beyond these limit

5.1.2.6. When any budget has been increased, ENGINEER's excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increased.

5.2. REIMBURSABLE EXPENSES

5.2.1.1. Direct non-salary expenses, entitled Reimbursable Expenses, directly attributable to the Work shall be charged at actual cost, and shall be limited to the following:

5.2.1.2. Identifiable transportation expenses in connection with the Work, subject to the limitations of Section 112.061, Florida Statutes. There shall be no mileage reimbursement for travel within the City of Key West. Transportation expenses to locations outside the City area or from locations outside the City will not be reimbursed unless specifically pre-authorized in writing by the Contract Administrator.

5.2.1.3. Identifiable per diem, meals and lodgings, taxi fares, automobile rental, and miscellaneous travel- connected expenses for ENGINEER's personnel subject to the limitations of Section 112.061 Florida Statutes. Meals for class C travel inside the City of Key West will not be reimbursed. Lodging will be reimbursed only for room rates equivalent to Hampton Inn or Best Western located within the City of Key West city limits.

5.2.1.4. Identifiable communication expenses approved by Contract Administrator, long distance telephone, courier and express mail utilized to render the services required by this Agreement.

5.2.1.5. Cost of printing, reproduction or photography that is required by or of ENGINEER to deliver services set forth in this Agreement.

5.2.1.6. Identifiable testing costs approved by Contract Administrator.

5.2.1.7. All permit fees paid to regulatory agencies for approvals directly attributable to the Work. These permit fees do not include those permits required for the Contractor.

5.2.2. It is acknowledged and agreed to by ENGINEER that the dollar limitation set forth in paragraphs 5.2.1.1 through 5.2.1.7 is a limitation upon, and describes the maximum extent of, CITY's obligation to reimburse ENGINEER for direct, non-salary expenses. If CITY or Contract Administrator requests ENGINEER to incur expenses not contemplated in the amount for Reimbursable Expenses, ENGINEER shall notify Contract

in writing before incurring such expenses. Any such expenses shall be reviewed and approved by CITY prior to incurring such expenses.

5.2.3. All sub-consultants' hourly rates shall be billed in the actual amount paid by ENGINEER. Sub- consultant Reimbursable Expenses are limited to the items in Paragraphs 5.2.1.1 through 5.2.1.7 described above when the sub-consultant's agreement provides for reimbursable expenses.

5.3. METHOD OF BILLING

5.3.1. Lump Sum Compensation

ENGINEER shall submit billings identifying type of work completed on a monthly basis in a timely manner. These billings shall identify the nature of the work performed and the estimated percent of work accomplished. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, ENGINEER shall provide backup for past and current invoices that record hours, personnel, and expense costs on a task basis, so that total hours and costs by task may be determined.

5.3.2. Cost Reimbursable-Per Diem (Time and Expenses) Compensation

ENGINEER shall submit billings identifying the type of work completed on a monthly basis in a timely manner for all personnel hours and reimbursable expenses attributable to the Work. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category and name of the individuals performing same. Billings shall itemize and summarize reimbursable expenses by category and identify same as to the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for reimbursable expenses, a copy of the approval shall accompany the billing for such reimbursable. The statement shall show a summary of salary costs and reimbursable expenses with accrual of the total and credits for portions paid previously. External reimbursable expenses and sub-consultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain the purchase order number or other identifier that clearly indicates the expense is identifiable to the Work. Subsequent addition of the identifier to the invoice or receipt by the ENGINEER is not acceptable except for meals and travel expenses. Appropriate ENGINEER's cost accounting forms with a summary of charges must document internal expenses by category. When requested, ENGINEER shall provide backup for past and current invoices that records hours and rates by employee category, reimbursable expenses by category, and subcontractor fees on a task basis, so that total hours and costs by task may be determined.

5.3.3. If requested, ENGINEER shall provide copies of past paid invoices to any subcontractor or sub-consultant prior to receiving payment. CITY reserves the right to pay any subcontractor or sub- consultant, if ENGINEER has not paid them timely and the services of the subcontractor or sub- consultant are necessary to complete the Work.

5.4. METHOD OF PAYMENT

5.4.3. CITY shall pay ENGINEER within forty-five (45) calendar days from receipt of ENGINEER's proper invoice with documentation as provided above.

5.4.3. In the event ENGINEER has utilized a Sub-consultant to perform the Work, ENGINEER will be required to provide documentation that Sub-consultant and Sub-consultants of Sub-consultants have been paid prior to payment being made to ENGINEER.

5.4.3. Payment will be made to ENGINEER
at:

Address: 1010 Kennedy Drive, Suite 202
Key West, FL 33040

ARTICLE 6

CITY 'S RESPONSIBILITIES

- 6.1.** CITY shall assist ENGINEER by placing at ENGINEER's disposal all information CITY has available pertinent to the Task Order including previous reports and any other data relative to design or construction of the Task Order.
- 6.2.** CITY shall arrange for access to, and make all provisions for, ENGINEER to enter upon public and private property as required for ENGINEER to perform its services.
- 6.3.** CITY shall review the ENGINEER's itemized deliverables/documents identified in the Task Orders and respond in writing with any comment within the time set forth in the Task Order or within a reasonable time.
- 6.4.** CITY shall give prompt written notice to ENGINEER whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services or any defect in the work of any Contract.

ARTICLE 7

MISCELLANEOUS

7.1. OWNERSHIP OF DOCUMENTS

All finished or unfinished documents, data, data matrices and calculations generated and used to evaluate and compute the construction or material requirements for the Task Order, studies, surveys, drawings, maps, models, photographs and reports prepared or provided by ENGINEER in connection with this Agreement, whether in hard copy or electronic form, shall become the property of CITY, whether the Task Order for which they are made is completed or not. If applicable, CITY may withhold any payments then due to ENGINEER until ENGINEER complies with the provisions of this Article. ENGINEER is not responsible for damages caused by the unauthorized re- use by others of any of the materials for another Task Order.

7.2. TERMINATION

- 7.2.1. This Agreement may be terminated with or without cause by CITY at any time.
- 7.2.2. Notice of termination shall be provided in accordance with paragraph 7.12 NOTICES of this Agreement.
- 7.2.3. In the event this Agreement is terminated, ENGINEER shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 7.1 of this Agreement are provided to the CITY. Upon being notified of CITY's election to terminate, ENGINEER shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall CITY make payment of profit for services that have not been performed.

7.3. AUDIT RIGHT AND RETENTION OF RECORDS

- 7.3.1. CITY shall have the right to audit the books, records, and accounts of ENGINEER that are related to any Task Order. ENGINEER shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Task Order.

7.3.2. ENGINEER shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to ENGINEER's records, ENGINEER shall comply with all requirements thereof; however, ENGINEER shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

7.4. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AMERICANS WITH DISABILITIES ACT, AND EQUAL BENEFITS FOR DOMESTIC PARTNERS

7.4.1. ENGINEER shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.

7.4.2. ENGINEER's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, gender identity or expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor that cannot be lawfully or appropriately used as a basis for service delivery. ENGINEER shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, gender identity or expression, marital status, political affiliation, or physical or mental disability. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeships), and accessibility.

7.4.3. Engineer shall comply with City Ordinance Sec. 2-799 Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

7.5. PUBLIC ENTITY CRIMES ACT

7.5.1. ENGINEER represents that the execution of this Agreement shall not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, engineer or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or engineer under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in being barred from CITY's competitive procurement activities.

7.5.2. In addition to the foregoing, ENGINEER further represents that there has been no determination, based on an audit, that it or any sub-consultant, has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether ENGINEER has been placed on the convicted vendor list.

7.5.3. ENGINEER shall promptly notify CITY if it or any subcontractor or sub-consultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

7.6. SUB-CONSULTANTS

ENGINEER may use the sub-consultants identified in the proposal that was a material part of the selection of ENGINEER to provide the services under this Agreement. The CITY reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultants in order to make determination as to the capability of the sub-consultant to perform properly under this Contract. The CITY's acceptance of a sub-consultant shall not be unreasonably withheld. ENGINEER shall obtain written approval of Contract Administrator prior to changing or adding to the list of sub-consultants. The list of sub-consultants submitted and currently approved is as follows:

a. _____
b. _____

- c. _____
- d. _____

Hourly rates for such said Sub-consultants are as on attached Exhibit A.

7.7. ASSIGNMENT AND PERFORMANCE

- 7.7.1. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and ENGINEER shall not subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 7.6.
- 7.7.2. ENGINEER represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to CITY's satisfaction for the agreed compensation.
- 7.7.3. ENGINEER shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of ENGINEER's performance and all interim and final product(s) provided to or on behalf of CITY shall be in accordance with the standard of care set forth in Paragraph 3.6.
- 7.7.4. ENGINEER shall not change or replace overall project manager identified in the ENGINEER's response to the RFQ without the Contract Administrator's prior written approval.

7.8. INDEMNIFICATION OF CITY

- 7.8.1. To the fullest extent permitted by law, the ENGINEER expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnities") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the ENGINEER, its Subcontractors or persons employed or utilized by them in the performance of the Contract. Claims by indemnities for indemnification shall be limited to the amount of ENGINEER's insurance or \$1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.
- 7.8.2. The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the ENGINEER under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the ENGINEER or of any

third party to whom ENGINEER may subcontract a part or all of the Work. This indemnification shall continue beyond the date of completion of the Work.

7.9. INSURANCE

7.9.1. ENGINEER is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for workers' compensation, public liability, and property damage liability insurance, and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts to prevail if greater than minimum amounts indicated. Notwithstanding any other provision of the Contract, the ENGINEER shall provide the minimum limits of liability insurance coverage as follows:

Auto Liability	\$1,000,000	Combined Single Limit
General Liability	\$2,000,000	Aggregate (Per Project)
	\$2,000,000	Products Aggregate
	\$1,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$ 300,000	Fire Damage/Legal
Professional Liability	\$2,000,000	Per Claim / Aggregate

7.9.2. ENGINEER shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as an additional insured on all policies— excepting Professional Liability—on a PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its equivalent, (combination of CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations, is acceptable) including a waiver of subrogation clause in favor of City of Key West on all policies. ENGINEER will maintain the Professional Liability, General Liability, and Umbrella Liability insurance coverages summarized above with coverage continuing in full force including the additional insured endorsement until at least 3 years beyond completion and delivery of the work contracted herein.

7.9.3. Notwithstanding any other provision of the Contract, the ENGINEER shall maintain complete worker's compensation coverage for each and every employee, principal, officer, representative, or agent of the ENGINEER who is performing any labor, services, or material under the Contract. Further, ENGINEER shall additionally maintain the following minimum limits of coverage:

Bodily Injury Each Accident	\$1,000,000
Bodily Injury by Disease Each Employee	\$1,000,000
Bodily Injury by Disease Policy Limit	\$1,000,000

7.9.4. If the work is being done on or near a navigable waterway, ENGINEER's workers

compensation policy shall be endorsed to provide USL&H Act (WC 00 01 06 A) and Jones Act (WC 00 02 01 A) coverage if specified by the City of Key West. ENGINEER shall provide the City of Key West with a Certificate of Insurance verifying compliance with the workers' compensation coverage as set forth herein and shall provide as often as required by the City of Key West such certification which shall also show the insurance company, policy number, effective and expiration date, and the limits of worker's compensation coverage under each policy.

- 7.9.5. ENGINEER's insurance policies shall be endorsed to give 30 days written notice to the City of Key West in the event of cancellation or material change, using form CG 02 24, or its equivalent.
- 7.9.6. Certificates of Insurance submitted to the City of Key West will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.
- 7.9.7. ENGINEER will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. ENGINEER will notify City of Key West immediately by telephone at (305) 809-3964 any accident or injury to anyone that occurs on the jobsite and is related to any of the work being performed by the ENGINEER.
- 7.9.8. It shall be the responsibility of the Engineer to ensure that all sub-consultants/subcontractors comply with the same insurance requirements as is required of Engineer.
- 7.9.9. In addition, it is understood if at any time any of the policies required by the City shall become unsatisfactory to the City as to form or substance, or if a company issuing any such policy shall become unsatisfactory to the City, the Engineer shall obtain a new policy, submit the same to the City for approval and submit a certificate of insurance as which may be required by the contract. It is understood that upon failure of the Engineer to furnish, deliver and maintain such insurance as required above, the contract at the election of the City may be declared suspended, discontinued or terminated. Further, failure of the Engineer to take out and/or maintain any required insurance shall not relieve the Engineer from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the Engineer concerning indemnification.

7.10. REPRESENTATIVE OF CITY AND ENGINEER

- 7.10.1. The parties recognize that questions in the day-to-day conduct of the Task Order will arise. The Contract Administrator, upon ENGINEER's request, shall advise ENGINEER in writing of one (1) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Task Order shall be addressed.

- 7.10.2. ENGINEER shall inform the Contract Administrator in writing of

ENGINEER's representative to whom matters involving the conduct of the Task Order shall be addressed.

7.11. ALL PRIOR AGREEMENTS SUPERSEDED

- 7.11.1. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document and the exhibits attached. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.
- 7.11.2. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

7.12. NOTICES

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR CITY OF KEY WEST:

City of Key West
1300 White Street
Key West, FL 33040

FOR ENGINEER:

Contact Name: Allen E. Perez
Address: 1010 Kennedy Drive, Suite 202
Key West, FL 33040

7.13. TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by ENGINEER shall act as the execution of a truth-in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of

contracting. The original contract price for any Task Order and any additions thereto shall be adjusted to exclude any significant sums, by which CITY determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

7.14. INTERPRETATION

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence or paragraph where they appear, unless the context otherwise requires. Whenever reference is made to a Paragraph or Article of this Agreement, such reference is to the Paragraph or Article as a whole, including all of the subsections of such Paragraph, unless the reference is made to a particular subsection or subparagraph of such Paragraph or Article.

7.15. ENGINEER'S STAFF

- 7.15.1. ENGINEER shall provide the key staff identified in their proposal for Task Order as long as such key staffs are in ENGINEER's employment.
- 7.15.2. ENGINEER shall obtain prior written approval of Contract Administrator to change key staff. ENGINEER shall provide Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator shall be reasonable in evaluating key staff qualifications.
- 7.15.3. If Contract Administrator desires to request removal of any of ENGINEER's staff, Contract Administrator shall first meet with ENGINEER and provide reasonable justification for said removal.
- 7.15.4. The CITY reserves the right to approve the members of the Consulting Team and the roles they will undertake in the assignment. The CITY's acceptance of a team member shall not be unreasonably withheld.
- 7.15.5. Each assignment issued under this Agreement by the CITY to the Engineer, the Engineer will at the CITY's request, disclose the role, qualifications and hourly rate of each individual working on the assignment.
- 7.15.6. The CITY reserves the right to require replacement of any of the members of the Consulting Team. Any proposed addition or change of members of the Consulting Team initiated by the Engineer must obtain the CITY Representative's prior written approval.

7.15.7. In the event of the death, incapacity or termination of employment of any member of the Consulting Team before Completion of the Services, the Engineer shall at its own expense and as soon as reasonably practicable arrange to substitute or replace the individual member concerned.

7.15.8. The Engineer shall ensure that the substitute or replacement is no less qualified in terms of relevant experience and qualifications than the outgoing individual and is available at the relevant time to act as such replacement or substitute. The Engineer shall without delay forward curriculum vitae of the proposed substitute or replacement to the CITY. The deployment of such substitute or replacement shall be subject to the CITY's consent.

7.15.9. The Engineer shall solely be responsible for all direct, indirect and consequential costs or losses that may arise from the substitution or replacement of members of the Consulting Team.

7.16. INDEPENDENT CONTRACTOR

ENGINEER is an independent contractor under this Agreement. Services provided by ENGINEER shall be subject to the supervision of ENGINEER. In providing the services, ENGINEER or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY, nor shall they accrue any of the rights or benefits of a CITY employee. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.17. THIRD PARTY BENEFICIARIES

Neither ENGINEER nor CITY intend directly or substantially to benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. No subcontractor or sub-consultant, whether named or unnamed, shall be a third party beneficiary of this Agreement.

7.18. CONFLICTS

7.18.1. Neither ENGINEER nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with ENGINEER's loyal and conscientious exercise of judgment related to its performance under this Agreement.

7.18.2. ENGINEER agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal

proceeding.

7.18.3. In the event ENGINEER is permitted to use sub-consultants to perform any services required by this Agreement, ENGINEER agrees to prohibit such sub-consultants from having any conflicts as within the meaning of this section, and shall so notify them in writing.

7.19. CONTINGENCY FEE

ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for ENGINEER, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for ENGINEER, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

7.20. WAIVER OF BREACH AND MATERIALITY

7.20.1. Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.20.2. CITY and ENGINEER agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

7.21. COMPLIANCE WITH LAWS

ENGINEER shall comply with federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement applicable at the time the scope of services was drafted for this agreement. In addition, at the time each Task Order is executed, any revisions to applicable federal state, and local laws, codes, ordinances, rules and regulations shall apply.

7.22. SEVERABILITY

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or ENGINEER elects to terminate this Agreement.

7.23. JOINT PREPARATION

7.23. JOINT PREPARATION

Preparation of this Agreement has been a joint effort of CITY and ENGINEER and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

7.24. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.25. APPLICABLE LAW AND VENUE

The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, arbitration or any other legal proceeding shall be Monroe County, Florida.

7.26. INCORPORATION BY REFERENCE

The attached exhibits are incorporated into and made a part of this Agreement:

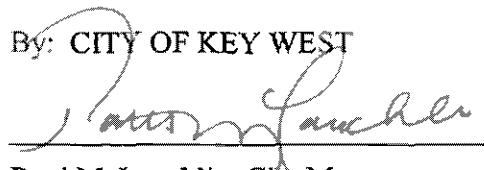
Exhibit A – ENGINEER/Sub-consultants' Hourly Rates

7.27. COUNTERPARTS

This Agreement may be executed in three (3) counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the
respective dates under each signature.

By: CITY OF KEY WEST



Patti McLaughlin, City Manager

1st day of March, 20 23

Attest:



Cheryl Smith, City Clerk

____ day of March, 20 23

By: ENGINEER

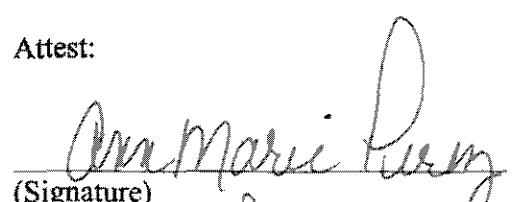


(Signature)
Allen B. Powers, P.E., P.S.

(Print Name and Title)

20th day of February, 20 23

Attest:



(Signature)
Ann Marie Powers, Admin.

(Print Name and Title)

20th day of February, 20 23

Exhibit A

Hourly Fee Schedule

Company Name: _____ **Date:** _____

Position Title	Hourly Rate
-----------------------	--------------------

Perez Engineering & Development, Inc.

CITY OF KEY WEST

Fee Schedule - 2023

Discipline/Position	Registration	Rate
Principal	P.E.	\$225/hr
Senior Engineer	P.E.	\$185/hr
Project Engineer	P.E.	\$165/hr
Design Engineer	E.I.	\$115/hr
CAD Designer	None	\$90/hr
Clerical	None	\$60/hr

The depicted rates for each classification include all salaries, overheads, and profit, but do not include allowances for Reimbursable Expenses. These rates are subject to fiscal year adjustments.

Discipline Descriptions

Principal – An officer of the company responsible for contractual obligations who manages the overall work performed.

Senior Engineer – In responsible charge of subordinate professional staff and performs work related to planning, design, and construction projects. Manages and coordinates projects with clients and other Agencies.

Project Engineer – Performs assignments as part of a work team in planning, organizing and developing projects. Usually requires a 4 year degree plus relevant experience. Typically reports to the Senior Engineer and may supervise other project professionals or technicians.

Design Engineer – Performs tasks such as initial drawings, preliminary research, or plan modifications. Assists with the completion of Agency permit applications. Usually requires a 4 year degree plus 1-3 years of relevant experience.

CAD Designer – Uses computer aided software to prepare drawings and designs that meet engineering specifications. Analyzes design in order to complete drawings. Usually requires a 2 year degree plus some relevant experience.

Construction Manager – Coordinates with the client, contractors, and other agencies throughout the construction phase of projects. Evaluates requests for information, requests for work changes, and reviews pay applications. Provides limited construction inspections to make sure the work is being performed per the contract documents.

Clerical – Provides administrative support and general office support services.

State of Florida

Department of State

I certify from the records of this office that PEREZ ENGINEERING & DEVELOPMENT, INC. is a corporation organized under the laws of the State of Florida, filed on March 19, 1999.

The document number of this corporation is P99000025578.

I further certify that said corporation has paid all fees due this office through December 31, 2023, that its most recent annual report/uniform business report was filed on February 15, 2023, and that its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

*Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capital, this
the Fifteenth day of February,
2023*



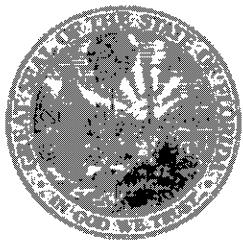
A handwritten signature in black ink, appearing to read "ESJ".

Secretary of State

Tracking Number: 0788637007CC

To authenticate this certificate, visit the following site, enter this number, and then follow the instructions displayed.

<https://services.sunbiz.org/Filings/CertificateOfStatus/CertificateAuthentication>



Ron DeSantis, Governor

Melanie S. Griffin, Secretary



FBPE
FLORIDA BOARD OF
PROFESSIONAL ENGINEERS

STATE OF FLORIDA

BOARD OF PROFESSIONAL ENGINEERS

THE PROFESSIONAL ENGINEER HEREIN IS LICENSED UNDER THE
PROVISIONS OF CHAPTER 471, FLORIDA STATUTES

PEREZ, ALLEN EMIL JR

6 EVERGREEN CT
KEY WEST FL 330400000

LICENSE NUMBER: PE51468

EXPIRATION DATE: FEBRUARY 28, 2025

Always verify licenses online at MyFloridaLicense.com



Do not alter this document in any form.

This is your license. It is unlawful for anyone other than the licensee to use this document.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/26/2023

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

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

PRODUCER
Collinsworth Ins&Risk Mgmt Services Inc
P.O. Box 651628

Miami Springs FL 33266

INSURED
Perez Engineering & Development, Inc.
1010 Kennedy Drive
Suite 202
Key West FL 33040

(305) 293-9440

CONTACT NAME:	Erinn E Collinsworth	FAX (A/C. No.):
PHONE (A/C. No. Ext.):	(786) 930-4795	
E-MAIL ADDRESS:	Erinn@Collinsworthinsurance.com	
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURERA: The Phoenix Insurance Company		25623
INSURERB: Travelers Cas & Surety Co		19038
INSURERC: Travelers Property Casualty of A		25674
INSURERD: Beazley Insurance Company Inc.		37540
INSURERE:		
INSURERF:		

COVERAGEs

CERTIFICATE NUMBER: Cert ID 17622

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD. WVD.	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	X COMMERCIAL GENERAL LIABILITY					
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		660-4K759893	02/16/2023	02/16/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (EA occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG. \$ 2,000,000 \$
	GENL AGGREGATE LIMIT APPLIES PER: POLICY <input checked="" type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC					
	OTHER:					
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (EA accident) \$ 1,000,000
A	ANY AUTO		660-4K759893	02/16/2023	02/16/2024	BODILY INJURY (Per person) \$
	OWNED AUTOS ONLY	SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
X	Hired AUTOS ONLY	<input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY				PROPERTY DAMAGE (Per accident) \$
	DED <input checked="" type="checkbox"/> RETENTION\$ 10,000					\$
C	X UMBRELLA LIAB	<input checked="" type="checkbox"/> OCCUR	CUP7S040428	02/16/2023	02/16/2024	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ 1,000,000
	EXCESS LIAB	CLAIMS-MADE				
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N <input checked="" type="checkbox"/> N/A	UB-3L257670	02/16/2023	02/16/2024	X PER STATUTE OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below					
D	Professional Liability		V21F77220401	02/16/2022	02/16/2024	Each Claim \$ 2,000,000
D			Claims Made Basis			Aggregate \$ 2,000,000

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

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Erinn E. Collinsworth

CITY OF KEY WEST, FLORIDA

Business Tax Receipt

This Document is a business tax receipt
Holder must meet all City zoning and use provisions.
P.O. Box 1409, Key West, Florida 33040 (305) 809-3955

Business Name PEREZ ENGINEERING & DEVELOPMEN
Location Addr 1010 KENNEDY DR
Lic NBR/Class 17095 STATE LICENSED PROFESSIONAL
Issued Date 8/19/2022 Expiration Date: September 30, 2023

ATTORNEY, PHYSICIAN OR OTHER STATE LICENSED
PROFESSIONAL

Comments: CIVIL ENGINEER

Restrictions: PE51468 (02/28/23)

PEREZ ENGINEERING &
DEVELOPMEN
1010 KENNEDY DR #201

This document must be prominently displayed.

PEREZ, ALLEN

KEY WEST, FL 33040

AGREEMENT

between

CITY OF KEY WEST

and

Jacobs Engineering Group Inc.

for

GENERAL ENGINEERING SERVICES

KEY WEST, FLORIDA

This is an Agreement between: CITY OF KEY WEST, its successors and assigns, hereinafter referred to as "CITY," and Jacobs Engineering Group Inc., a corporation organized under the laws of the State of Delaware, its successors and assigns, hereinafter referred to as "ENGINEER".

W I T N E S S E T H, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and ENGINEER agree as follows:

ARTICLE 1

DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

1.1. Agreement: This document, Articles 1 through 7, inclusive. Other terms and conditions are included in the CITY's RFQ 22 - 006, ENGINEER's Response to RFQ dated

October 26, 2022, exhibits, Task Orders, and supplemental documents that are by this provision expressly incorporated herein by reference.

1.2. Commissioners: Members of the City Commission with all legislative powers of the CITY vested therein.

1.3. ENGINEER: The firm selected to perform the services pursuant to this Agreement.

1.4. Contract Administrator: The ranking managerial employee of the CITY or some other employee expressly designated as Contract Administrator by the City Manager, who is the representative of the CITY. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.

1.5. Contractor: The person, firm, corporation or other entity that enters into an agreement with CITY to perform the construction work for the Task Order.

1.6. CITY: City of Key West.

1.7. Task Order: A detailed description of a particular service or services to be performed by ENGINEER under this Agreement.

ARTICLE 2

PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and generally to express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1.** The ENGINEER is not entitled to receive, and the CITY is not obligated to pay, any fees or expenses in excess of the amount budgeted for Task Orders authorized under this Agreement in each fiscal year (October 1-September 30) by CITY. The budgeted amount may only be modified per City Ordinance(s).
- 2.2.** The CITY has met the requirements of the Engineers' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected ENGINEER to perform the services hereunder based on the Request for Qualifications 22-006 incorporated by reference and made a part hereof and the Response to the Request for Qualifications from Engineer dated December 7, 2022, incorporated by reference and made part of.
- 2.3.** Negotiations pertaining to the services to be performed by ENGINEER were undertaken between ENGINEER and staff selected by the Commission, and this Agreement incorporates the results of such negotiations.

ARTICLE 3

SCOPE OF SERVICES AND STANDARD OF CARE

3.1. ENGINEER's services may include but are not limited to the following in regard to the Agreement:

- 3.1.1. Civil Engineering Services
- 3.1.2. Utility Engineering Services
- 3.1.3. Solid Waste Engineering Services
- 3.1.4. Coastal Engineering Services
- 3.1.5. Structural Engineering Services

3.2. ENGINEER's services shall include comprehensive full-scale engineering, design, surveying, permit preparation, preparing contract specifications, preparing bid and proposal documents and assisting the City with technical review and ranking of the same to attain qualified contractors for work, environmental assessments, construction administration and owner project representation services relating to operation, new construction, permit modification, construction improvements, rehabilitation and or retrofits, and any other lawful professional Engineering services that the ENGINEER is qualified to provide, and that the CITY authorizes the ENGINEER to undertake in connection with this Agreement. ENGINEER shall provide all necessary, incidental and related activities and services as required.

3.3. ENGINEER and CITY acknowledge that the Scope of Services does not delineate every detail and minor work task required to be performed by ENGINEER to complete any particular task order. If, during the course of the performance of the services included in this Agreement, ENGINEER determines that work should be performed to complete the Task Order which is, in the ENGINEER's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, ENGINEER shall notify Contract Administrator in writing in a timely manner before proceeding with the work. If ENGINEER proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work. Performance of work by ENGINEER outside the originally anticipated level of effort without prior written CITY approval or modification of Task Order is at ENGINEER's sole risk.

3.4. The specific services to be provided by the ENGINEER and the compensation for such services shall be as mutually agreed to in separate Task Orders to this AGREEMENT. Each Task Order when fully executed shall become a supplement to and a part of this AGREEMENT.

- 3.4.1. Each Task Order shall be supported by appropriate cost and pricing data and such other documentation as required by the CITY.
- 3.4.2. Task Orders shall be numbered consecutively as specified by CITY. Each Task Order shall include a description of the scope of services and specified deliverables, time of completion, total estimated costs of services, and method of compensation. Additional information shall be provided to the CITY if required. Amended Task Orders shall include substantially the same information and be submitted to the CITY for approval.
- 3.4.3. The CITY may make or approve changes within the general Scope of Services in any Task Order. If such changes affect the ENGINEER's cost of or time required for performance of

the services, an equitable adjustment shall be made through an amendment to the Task Order.

3.4.4. A Task Order may be terminated at any time, with or without cause, by the CITY upon written notice to ENGINEER. ENGINEER shall perform no further work upon receipt of this notice unless specifically authorized by the City Manager of the City of Key West. On termination, the ENGINEER shall be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the Task Order. The CITY shall not pay for anticipatory profits. The termination of this Agreement pursuant to Paragraph 7.2, hereof, shall constitute the termination of any and all outstanding Task Orders.

3.4.5. The ENGINEER shall begin services under any Task Order when authorized by a Purchase Order issued by the CITY and delivered to ENGINEER.

3.5. The CITY and ENGINEER may negotiate additional scopes of services, compensation, time of performance and other related matters for each Task Order as allowed by this Agreement. If CITY and ENGINEER cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services from another source.

3.6. ENGINEER shall perform the professional services under this Agreement at the level customary for competent and prudent professionals in ENGINEER'S field performing such services at the time and place where the services are provided. In the event ENGINEER does not comply with this standard, and omissions or errors are made by ENGINEER, ENGINEER will correct such work that contains errors or omissions and reimburse CITY through compensation for damages.

3.7. ENGINEER is required to perform the Task Orders consistent with current applicable Federal, State and City laws, codes and regulations that pertain to the Task Order. In all Task Orders, where changes to any laws, codes or regulations affecting the Task Order have a Task Ordered effective date or are anticipated to be effective at a future date, or if knowledge of anticipated changes is available to ENGINEER or any sub-consultant, ENGINEER shall present options for their use or implementation.

3.8. Construction Responsibility - Notwithstanding anything in this Agreement, ENGINEER shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures, precautions and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by CITY's construction contractors.

3.9. Estimates - Since ENGINEER has no control over local conditions, the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, ENGINEER does not guarantee the accuracy of any opinions of probable construction cost as compared to construction contractor's bids or the actual cost to the CITY.

ARTICLE 4

TERM OF AGREEMENT: TIME FOR PERFORMANCE: CONTRACTOR DAMAGES:

The term of this Agreement shall be for a period of three (3) years from the effective date of the Agreement with the option of a two (2) year renewal. The Agreement will be in effect upon execution by both parties. The Agreement may be renewed at the discretion of the CITY.

- 4.1.** ENGINEER shall perform the services described in each Task Order within the time periods specified. Each such time period shall commence from the date of the purchase order issued for such services.
- 4.2.** ENGINEER must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent Task Order. Prior to granting approval for ENGINEER to proceed to a subsequent Task Order, the Contract Administrator may, at his or her sole option, require ENGINEER to submit any deliverables/documents for the Contract Administrator's review.
- 4.3.** In the event ENGINEER is unable to complete the above services because of delays resulting from untimely review by CITY or other governmental authorities having jurisdiction over the Task Order, and such delays are not the fault of ENGINEER, or because of delays which were caused by factors outside the control of ENGINEER, CITY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of ENGINEER to notify CITY within 10 days in writing whenever a delay in approval by a governmental agency, including CITY, is anticipated or experienced, and to inform the Contract Administrator of all facts and details related to the delay.
- 4.4.** In the event the Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY or if Contractor is granted an extension of time beyond said substantial completion date, and ENGINEER's services are extended beyond the substantial completion date, through no fault of ENGINEER, ENGINEER shall be compensated in accordance with Article 5 for all services rendered by ENGINEER beyond the substantial completion date.
- 4.5.** In the event Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY, and the failure to substantially complete is caused in whole or in part by a negligent act, error or omission of ENGINEER, then ENGINEER shall pay to CITY its proportional share of any claim or damages to Contractor or CITY arising out of the delay. This provision shall not affect the rights and obligations of either party as set forth in Paragraph 7.8, INDEMNIFICATION OF CITY.

ARTICLE 5

COMPENSATION AND METHOD OF PAYMENT

5.1. AMOUNT AND METHOD OF COMPENSATION

The types of compensation methods, which shall be used to pay for the ENGINEER's services, are limited to the following:

- 5.1.1. Lump sum payment/Not-to-Exceed, which includes compensation for all the ENGINEER'S salaries, general overhead costs, direct expenses, and profit.

5.1.1.1. If Work timing deviates from the assumed schedule for causes beyond ENGINEER's control, ENGINEER and/or the CITY reserves the right to request renegotiation of those portions of the lump sum affected by the time change. During construction contract administration, if tasked, it is agreed by both parties that whether construction is completed earlier or later, that a proportional part of the compensation will be adjusted and either given to ENGINEER for additional work or deleted from the amount owed ENGINEER for less time required.

5.1.1.2. In the event of a change of scope, CITY shall authorize in writing an appropriate decrease or increase in compensation.

5.1.1.3. Monthly invoicing will be based on an estimate of the percent of work completed at the end of the preceding month.

5.1.1.4. The ENGINEER shall submit wage rates and other actual unit costs supporting the compensation. The ENGINEER shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.

5.1.2. Cost Reimbursable-Per Diem (Time and Expenses)

5.1.2.1. Per diem rates are those hourly or daily rates charged for work performed on the WORK by ENGINEER's employees of the indicated classifications and include all salaries, overheads, and profit, but do not include allowances for Direct Expenses. These rates are subject to annual adjustments based on the Consumer Price Index Urban U.S. City Average All Items U.S. Department of Labor Bureau of Labor Statistics.

5.1.2.2. Hourly rates for the contract (ENGINEER AND Sub-consultants): See attached Exhibit A.

5.1.2.3. ENGINEER and Sub-consultants allowed annual wage adjustment on the Agreement effective anniversary dates shall not exceed the Data Resource Institute (DRI) forecast of wage and price escalation (the U.S. Bureau of Labor Statistics [BLS] Employment Cost Index [ECI] for Private Industry)

5.1.2.4. A budgetary amount will be established for each Task Order. This budgetary amount shall not be exceeded unless written approval is provided by the CITY. ENGINEER shall make reasonable efforts to complete the work within the budget and will keep CITY informed of progress toward that end so that the budget or work effort can be adjusted if found necessary.

5.1.2.5. ENGINEER is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CITY obligated to pay ENGINEER beyond these limit

5.1.2.6. When any budget has been increased, ENGINEER's excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increased.

5.2. REIMBURSABLE EXPENSES

5.2.1.1. Direct non-salary expenses, entitled Reimbursable Expenses, directly attributable to the Work shall be charged at actual cost, and shall be limited to the following:

5.2.1.2. Identifiable transportation expenses in connection with the Work, subject to the limitations of Section 112.061, Florida Statutes. There shall be no mileage reimbursement for travel within the City of Key West. Transportation expenses to locations outside the City area or from locations outside the City will not be reimbursed unless specifically pre-authorized in writing by the Contract Administrator.

5.2.1.3. Identifiable per diem, meals and lodgings, taxi fares, automobile rental, and miscellaneous travel- connected expenses for ENGINEER's personnel subject to the limitations of Section 112.061 Florida Statutes. Meals for class C travel inside the City of Key West will not be reimbursed. Lodging will be reimbursed only for room rates equivalent to Hampton Inn or Best Western located within the City of Key West city limits.

5.2.1.4. Identifiable communication expenses approved by Contract Administrator, long distance telephone, courier and express mail utilized to render the services required by this Agreement.

5.2.1.5. Cost of printing, reproduction or photography that is required by or of ENGINEER to deliver services set forth in this Agreement.

5.2.1.6. Identifiable testing costs approved by Contract Administrator.

5.2.1.7. All permit fees paid to regulatory agencies for approvals directly attributable to the Work. These permit fees do not include those permits required for the Contractor.

5.2.2. It is acknowledged and agreed to by ENGINEER that the dollar limitation set forth in paragraphs 5.2.1.1 through 5.2.1.7 is a limitation upon, and describes the maximum extent of, CITY's obligation to reimburse ENGINEER for direct, non-salary expenses. If CITY or Contract Administrator requests ENGINEER to incur expenses not contemplated in the amount for Reimbursable Expenses, ENGINEER shall notify Contract Administrator

in writing before incurring such expenses. Any such expenses shall be reviewed and approved by CITY prior to incurring such expenses.

5.2.3. All sub-consultants' hourly rates shall be billed in the actual amount paid by ENGINEER. Sub- consultant Reimbursable Expenses are limited to the items in Paragraphs 5.2.1.1 through 5.2.1.7 described above when the sub-consultant's agreement provides for reimbursable expenses.

5.3. METHOD OF BILLING

5.3.1. Lump Sum Compensation

ENGINEER shall submit billings identifying type of work completed on a monthly basis in a timely manner. These billings shall identify the nature of the work performed and the estimated percent of work accomplished. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, ENGINEER shall provide backup for past and current invoices that record hours, personnel, and expense costs on a task basis, so that total hours and costs by task may be determined.

5.3.2. Cost Reimbursable-Per Diem (Time and Expenses) Compensation

ENGINEER shall submit billings identifying the type of work completed on a monthly basis in a timely manner for all personnel hours and reimbursable expenses attributable to the Work. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category and name of the individuals performing same. Billings shall itemize and summarize reimbursable expenses by category and identify same as to the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for reimbursable expenses, a copy of the approval shall accompany the billing for such reimbursable. The statement shall show a summary of salary costs and reimbursable expenses with accrual of the total and credits for portions paid previously. External reimbursable expenses and sub-consultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain the purchase order number or other identifier that clearly indicates the expense is identifiable to the Work. Subsequent addition of the identifier to the invoice or receipt by the ENGINEER is not acceptable except for meals and travel expenses. Appropriate ENGINEER's cost accounting forms with a summary of charges must document internal expenses by category. When requested, ENGINEER shall provide backup for past and current invoices that records hours and rates by employee category, reimbursable expenses by category, and subcontractor fees on a task basis, so that total hours and costs by task may be determined.

5.3.3. If requested, ENGINEER shall provide copies of past paid invoices to any subcontractor or sub-consultant prior to receiving payment. CITY reserves the right to pay any subcontractor or sub- consultant, if ENGINEER has not paid them timely and the services of the subcontractor or sub- consultant are necessary to complete the Work.

5.4. METHOD OF PAYMENT

5.4.3. CITY shall pay ENGINEER within thirty (30) calendar days from receipt of ENGINEER's proper invoice with documentation as provided above.

5.4.3. In the event ENGINEER has utilized a Sub-consultant to perform the Work, ENGINEER will be required to provide documentation that Sub-consultant and Sub-consultants of Sub-consultants have been paid prior to payment being made to ENGINEER.

5.4.3. Payment will be made to ENGINEER

at:

Address: Jacobs Engineering Group Inc.
c/o Bank of America
800 Market Street, Lockbox 18713F
St. Louis, MO 63150-8713

ARTICLE 6

CITY'S RESPONSIBILITIES

- 6.1. CITY shall assist ENGINEER by placing at ENGINEER's disposal all information CITY has available pertinent to the Task Order including previous reports and any other data relative to design or construction of the Task Order.
- 6.2. CITY shall arrange for access to, and make all provisions for, ENGINEER to enter upon public and private property as required for ENGINEER to perform its services.
- 6.3. CITY shall review the ENGINEER's itemized deliverables/documents identified in the Task Orders and respond in writing with any comment within the time set forth in the Task Order or within a reasonable time.
- 6.4. CITY shall give prompt written notice to ENGINEER whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services or any defect in the work of any Contract.

ARTICLE 7

MISCELLANEOUS

7.1. OWNERSHIP OF DOCUMENTS

All finished or unfinished documents, data, data matrices and calculations generated and used to evaluate and compute the construction or material requirements for the Task Order, studies, surveys, drawings, maps, models, photographs and reports prepared or provided by ENGINEER in connection with this Agreement, whether in hard copy or electronic form, shall become the property of CITY, whether the Task Order for which they are made is completed or not. If applicable, CITY may withhold any payments then due to

ENGINEER until ENGINEER complies with the provisions of this Article. ENGINEER is not responsible for damages caused by the unauthorized re- use by others of any of the materials for another Task Order.

7.2. TERMINATION

- 7.2.1. This Agreement may be terminated with or without cause by CITY at any time.
- 7.2.2. Notice of termination shall be provided in accordance with paragraph 7.12 NOTICES of this Agreement.
- 7.2.3. In the event this Agreement is terminated, ENGINEER shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 7.1 of this Agreement are provided to the CITY. Upon being notified of CITY's election to terminate, ENGINEER shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall CITY make payment of profit for services that have not been performed.

7.3. AUDIT RIGHT AND RETENTION OF RECORDS

- 7.3.1. CITY shall have the right to audit the books, records, and accounts of ENGINEER that are related to any Task Order. ENGINEER shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Task Order.

7.3.2. ENGINEER shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to ENGINEER's records, ENGINEER shall comply with all requirements thereof; however, ENGINEER shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

**7.4. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY,
AMERICANS WITH DISABILITIES ACT, AND EQUAL BENEFITS FOR
DOMESTIC PARTNERS**

7.4.1. ENGINEER shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.

7.4.2. ENGINEER's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, gender identity or expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor that cannot be lawfully or appropriately used as a basis for service delivery. ENGINEER shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, gender identity or expression, marital status, political affiliation, or physical or mental disability. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeships), and accessibility.

7.4.3. Engineer shall comply with City Ordinance Sec. 2-799 Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

7.5. PUBLIC ENTITY CRIMES ACT

7.5.1. ENGINEER represents that the execution of this Agreement shall not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, engineer or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or engineer under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in being barred from CITY's competitive procurement activities.

7.5.2. In addition to the foregoing, ENGINEER further represents that there has been no determination, based on an audit, that it or any sub-consultant, has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether ENGINEER has been placed on the convicted vendor list.

7.5.3. ENGINEER shall promptly notify CITY if it or any subcontractor or sub-consultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

7.6. SUB-CONSULTANTS

ENGINEER may use the sub-consultants identified in the proposal that was a material part of the selection of ENGINEER to provide the services under this Agreement. The CITY reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultants in order to make determination as to the capability of the sub-consultant to perform properly under this Contract. The CITY's acceptance of a sub-consultant shall not be unreasonably withheld. ENGINEER shall obtain written approval of Contract Administrator prior to changing or adding to the list of sub-consultants. The list of sub-consultants submitted and currently approved is as follows:

- a. Terracon Consultants (Terracon)
- b. FRALEMAN (FRA)
- c. Avirom & Associates, Inc. (AVIROM)
- d. Geosol, Inc. (GEOSOL)

Hourly rates for such said Sub-consultants are as on attached Exhibit A.

7.7. ASSIGNMENT AND PERFORMANCE

- 7.7.1. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and ENGINEER shall not subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 7.6.
- 7.7.2. ENGINEER represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to CITY's satisfaction for the agreed compensation.
- 7.7.3. ENGINEER shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of ENGINEER's performance and all interim and final product(s) provided to or on behalf of CITY shall be in accordance with the standard of care set forth in Paragraph 3.6.
- 7.7.4. ENGINEER shall not change or replace overall project manager identified in the ENGINEER's response to the RFQ without the Contract Administrator's prior written approval.

7.8. INDEMNIFICATION OF CITY

- 7.8.1. To the fullest extent permitted by law, the ENGINEER expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnities") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the ENGINEER, its Subcontractors or persons employed or utilized by them in the performance of the Contract. Claims by indemnities for indemnification shall be limited to the amount of ENGINEER's insurance or \$1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.
- 7.8.2. The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the ENGINEER under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the ENGINEER or of any

third party to whom ENGINEER may subcontract a part or all of the Work. This indemnification shall continue beyond the date of completion of the Work.

7.9. INSURANCE

7.9.1. ENGINEER is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for workers' compensation, public liability, and property damage liability insurance, and such other insurance coverages as may be required by specifications and addenda thereto, in the following amounts with specification amounts to prevail if greater than minimum amounts indicated. Notwithstanding any other provision of the Contract, the ENGINEER shall provide the limits of liability insurance coverage as follows:

Auto Liability	\$1,000,000	Combined Single Limit
General Liability	\$2,000,000	Aggregate (Per Project)
	\$2,000,000	Products Aggregate
	\$1,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$ 300,000	Fire Damage/Legal
Professional Liability	\$2,000,000	Per Claim / Aggregate

7.9.2. ENGINEER shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West included as an additional insured on all policies—excepting Professional Liability—on a PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its equivalent, (combination of CG 20 10 07 04 and CG 20 37 07

04, providing coverage for completed operations, is acceptable) including a waiver of subrogation clause in favor of City of Key West on the General and Auto Liability policies. ENGINEER will maintain the Professional Liability, General Liability, and Umbrella Liability insurance coverages summarized above with coverage continuing in full force including the additional insured endorsement until at least 3 years beyond completion and delivery of the work contracted herein.

7.9.3. Notwithstanding any other provision of the Contract, the ENGINEER shall maintain complete worker's compensation coverage for each and every employee, principal, officer, representative, or agent of the ENGINEER who is performing any labor, services, or material under the Contract. Further, ENGINEER shall additionally maintain the following limits of coverage:

Bodily Injury Each Accident	\$1,000,000
Bodily Injury by Disease Each Employee	\$1,000,000
Bodily Injury by Disease Policy Limit	\$1,000,000

7.9.4. If the work is being done on or near a navigable waterway, ENGINEER's workers

compensation policy shall be endorsed to provide USL&H Act (WC 00 01 06 A) and Jones Act (WC 00 02 01 A) coverage if specified by the City of Key West. ENGINEER shall provide the City of Key West with a Certificate of Insurance verifying compliance with the workers' compensation coverage as set forth herein and shall provide as often as required by the City of Key West such certification which shall also show the insurance company, policy number, effective and expiration date, and the limits of worker's compensation coverage under each policy.

- 7.9.5. ENGINEER's insurance policies shall be endorsed to give 30 days written notice to the City of Key West in the event of cancellation or material change, using form CG 02 24, or its equivalent.
- 7.9.6. Certificates of Insurance submitted to the City of Key West will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.
- 7.9.7. ENGINEER will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. ENGINEER will notify City of Key West immediately by telephone at (305) 809-3964 any accident or injury to anyone that occurs on the jobsite and is related to any of the work being performed by the ENGINEER.
- 7.9.8. It shall be the responsibility of the Engineer to ensure that all sub-consultants/subcontractors comply with the same insurance requirements as is required of Engineer.
- 7.9.9. In addition, it is understood if at any time any of the policies required by the City shall become unsatisfactory to the City as to form or substance, or if a company issuing any such policy shall become unsatisfactory to the City, the Engineer shall obtain a new policy, submit the same to the City for approval and submit a certificate of insurance as which may be required by the contract. It is understood that upon failure of the Engineer to furnish, deliver and maintain such insurance as required above, the contract at the election of the City may be declared suspended, discontinued or terminated. Further, failure of the Engineer to take out and/or maintain any required insurance shall not relieve the Engineer from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the Engineer concerning indemnification.

7.10. REPRESENTATIVE OF CITY AND ENGINEER

- 7.10.1. The parties recognize that questions in the day-to-day conduct of the Task Order will arise. The Contract Administrator, upon ENGINEER's request, shall advise ENGINEER in writing of one (1) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Task Order shall be addressed.

- 7.10.2. ENGINEER shall inform the Contract Administrator in writing of

ENGINEER's representative to whom matters involving the conduct of the Task Order shall be addressed.

7.11. ALL PRIOR AGREEMENTS SUPERSEDED

- 7.11.1. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document and the exhibits attached. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.
- 7.11.2. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

7.12. NOTICES

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR CITY OF KEY WEST:

City of Key West
1300 White Street
Key West, FL 33040

FOR ENGINEER:

Contact Name: Diana F. Francois, P.E.
Address: Diana F. Francois, P.E.
3150 S.W. 38th Avenue, Suite 700
Miami, Florida 33146

7.13. TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by ENGINEER shall act as the execution of a truth-in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of

contracting. The original contract price for any Task Order and any additions thereto shall be adjusted to exclude any significant sums, by which CITY determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

7.14. INTERPRETATION

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence or paragraph where they appear, unless the context otherwise requires. Whenever reference is made to a Paragraph or Article of this Agreement, such reference is to the Paragraph or Article as a whole, including all of the subsections of such Paragraph, unless the reference is made to a particular subsection or subparagraph of such Paragraph or Article.

7.15. ENGINEER'S STAFF

- 7.15.1. ENGINEER shall provide the key staff identified in their proposal for Task Order as long as such key staffs are in ENGINEER's employment.
- 7.15.2. ENGINEER shall obtain prior written approval of Contract Administrator to change key staff. ENGINEER shall provide Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator shall be reasonable in evaluating key staff qualifications.
- 7.15.3. If Contract Administrator desires to request removal of any of ENGINEER's staff, Contract Administrator shall first meet with ENGINEER and provide reasonable justification for said removal.
- 7.15.4. The CITY reserves the right to approve the members of the Consulting Team and the roles they will undertake in the assignment. The CITY's acceptance of a team member shall not be unreasonably withheld.
- 7.15.5. Each assignment issued under this Agreement by the CITY to the Engineer, the Engineer will at the CITY's request, disclose the role, qualifications and hourly rate of each individual working on the assignment.
- 7.15.6. The CITY reserves the right to require replacement of any of the members of the Consulting Team. Any proposed addition or change of members of the Consulting Team initiated by the Engineer must obtain the CITY Representative's prior written approval.

- 7.15.7. In the event of the death, incapacity or termination of employment of any member of the Consulting Team before Completion of the Services, the Engineer shall at its own expense and as soon as reasonably practicable arrange to substitute or replace the individual member concerned.
- 7.15.8. The Engineer shall ensure that the substitute or replacement is no less qualified in terms of relevant experience and qualifications than the outgoing individual and is available at the relevant time to act as such replacement or substitute. The Engineer shall without delay forward curriculum vitae of the proposed substitute or replacement to the CITY. The deployment of such substitute or replacement shall be subject to the CITY's consent.
- 7.15.9. The Engineer shall solely be responsible for all direct, indirect and consequential costs or losses that may arise from the substitution or replacement of members of the Consulting Team.

7.16. INDEPENDENT CONTRACTOR

ENGINEER is an independent contractor under this Agreement. Services provided by ENGINEER shall be subject to the supervision of ENGINEER. In providing the services, ENGINEER or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY, nor shall they accrue any of the rights or benefits of a CITY employee. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.17. THIRD PARTY BENEFICIARIES

Neither ENGINEER nor CITY intend directly or substantially to benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. No subcontractor or sub-consultant, whether named or unnamed, shall be a third party beneficiary of this Agreement.

7.18. CONFLICTS

- 7.18.1. Neither ENGINEER nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with ENGINEER's loyal and conscientious exercise of judgment related to its performance under this Agreement.
- 7.18.2. ENGINEER agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal

proceeding.

7.18.3. In the event ENGINEER is permitted to use sub-consultants to perform any services required by this Agreement, ENGINEER agrees to prohibit such sub-consultants from having any conflicts as within the meaning of this section, and shall so notify them in writing.

7.19. CONTINGENCY FEE

ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for ENGINEER, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for ENGINEER, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

7.20. WAIVER OF BREACH AND MATERIALITY

7.20.1. Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.20.2. CITY and ENGINEER agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

7.21. COMPLIANCE WITH LAWS

ENGINEER shall comply with federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement applicable at the time the scope of services was drafted for this agreement. In addition, at the time each Task Order is executed, any revisions to applicable federal state, and local laws, codes, ordinances, rules and regulations shall apply.

7.22. SEVERABILITY

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or ENGINEER elects to terminate this Agreement.

7.23. JOINT PREPARATION

Preparation of this Agreement has been a joint effort of CITY and ENGINEER and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

7.24. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.25. APPLICABLE LAW AND VENUE

The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, arbitration or any other legal proceeding shall be Monroe County, Florida.

7.26. INCORPORATION BY REFERENCE

The attached exhibits are incorporated into and made a part of this Agreement:

Exhibit A – ENGINEER/Sub-consultants' Hourly Rates

7.27. COUNTERPARTS

This Agreement may be executed in three (3) counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature.

By: CITY OF KEY WEST



Patti McLaughlin, City Manager

By: ENGINEER



(Signature)

David Ashman

(Print Name and Title)

28th day of March, 2023

23 day of March, 2023

Attest:



Cheryl Smith, City Clerk

Attest:



(Signature)

Diana F. Francois, P.E.

(Print Name and Title)

29 day of March, 2023

23 day of March, 2023

Exhibit A**Hourly Fee Schedule****Company Name: Jacobs Engineering Group Inc. Date: March 23, 2023**

Title	Year 23	Year 24	Year 25
Principal, Special Business Consultant	\$315	\$324	\$334
Engineer 8	\$280	\$288	\$297
Engineer 7	\$259	\$267	\$275
Engineer 6	\$240	\$247	\$255
Engineer 5	\$209	\$215	\$222
Engineer 4	\$183	\$188	\$194
Engineer 3	\$166	\$171	\$176
Engineer 2	\$145	\$149	\$154
Engineer 1	\$117	\$120	\$124
Planner 1	\$110	\$113	\$117
Technician 6	\$174	\$179	\$184
Technician 5	\$158	\$162	\$167
Technician 4	\$120	\$124	\$128
Technician 3	\$106	\$109	\$112
Technician 2	\$101	\$104	\$107
Technician 1	\$91	\$94	\$97
Clerical	\$98	\$101	\$104
Administrative Assistant	\$109	\$113	\$116

Note: Rates applicable January 1 through December 31 for each year.

Labor rates escalation at 3% per year



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/20/2023

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

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

PRODUCER LIC #0437153 Marsh Risk & Insurance Services CIRTS_Support@jacobs.com 633 W. Fifth Street Los Angeles, CA 90071 INSURED Jacobs Engineering Group Inc. C/O Global Risk Management 555 S Flower St, Suite 670 Los Angeles, CA 90071	1-212-948-1306	CONTACT NAME: PHONE (A/C. No. Ext): E-MAIL ADDRESS:	FAX (A/C. No): 1-212-948-1306
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: ACE AMER INS CO	22667
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES CERTIFICATE NUMBER: 67882418 REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WND	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR X CONTRACTUAL LIABILITY		HDO G72495176	07/01/22	07/01/23	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ex occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 OTHER: \$
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS Hired AUTOS ONLY NON-OWNED AUTOS ONLY		ISA H25568230	07/01/22	07/01/23	COMBINED SINGLE LIMIT (Ex accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB	OCCUR CLAIMS-MADE				EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N N/A	SCF C68914619 (WI) WLR C6891453A (AOS) WCU C68914577 (OH)*	07/01/22	07/01/23	X PER STATUTE OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	PROFESSIONAL LIABILITY		EON G21655065 013	07/01/22	07/01/23	PER CLAIM/PER AGG 2,000,000

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

PROJECT MGR: Diana Francois. CONTRACT MGR: Leanne Andersen. RE: City of Key West Engineering Services RFQ 2023. CONTRACT END DATE: 2023-12-29. PROJECT NUMBER: D3335202. SECTOR: Public. *THIS IS A SAMPLE CERTIFICATE ONLY*. THE ACTUAL CERTIFICATE FOR THE PROPOSED PROJECT WILL COMPLY WITH THE TERMS AND CONDITIONS NEGOTIATED IN THE FINAL CONTRACT, CONSISTENT WITH POLICY TERMS AND CONDITIONS.

CERTIFICATE HOLDER	CANCELLATION
City of Key West POST OFFICE BOX 1409 Key West, FL 33041	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
USA	AUTHORIZED REPRESENTATIVE

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SUPPLEMENT TO CERTIFICATE OF INSURANCE

DATE
02/20/2023

NAME OF INSURED: Jacobs Engineering Group Inc.

Additional Description of Operations/Remarks from Page 1:

Additional Information:

*\$2,000,000 SIR FOR STATE OF: OHIO

Licensee

Name:	JACOBS ENGINEERING GROUP INC.	License Number:	2822
Rank:	Registry	License Expiration Date:	
Primary Status:	Current	Original License Date:	05/21/1979

Related License Information

License Number	Status	Related Party	Relationship Type	Relation Effective Date	Rank	Expiration Date
66932	Current, Active	STEJSKAL, DAVID C	Registry		Professional Engineer	02/28/2025

AGREEMENT

between

CITY OF KEY WEST

and

Tetra Tech, Inc.

for

GENERAL ENGINEERING SERVICES

KEY WEST, FLORIDA

This is an Agreement between: CITY OF KEY WEST, its successors and assigns, hereinafter referred to as "CITY," and Tetra Tech, Inc., a corporation organized under the laws of the State of Delaware, its successors and assigns, hereinafter referred to as "ENGINEER".

W I T N E S S E T H, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and ENGINEER agree as follows:

ARTICLE 1 DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

Agreement: This document, Articles 1 through 7, inclusive. Other terms and conditions are included in the CITY's RFQ 22-006, ENGINEER's Response to RFQ dated December 12, 2022, exhibits, Task Orders, and supplemental documents that are by this provision expressly incorporated herein by reference.

- 1.1. **Commissioners:** Members of the City Commission with all legislative powers of the CITY vested therein.
- 1.2. **ENGINEER:** The firm selected to perform the services pursuant to this Agreement.
- 1.3. **Contract Administrator:** The ranking managerial employee of the CITY or some other employee expressly designated as Contract Administrator by the City Manager, who is the representative of the CITY. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.4. **Contractor:** The person, firm, corporation or other entity that enters into an agreement with CITY to perform the construction work for the Task Order.
- 1.5. **CITY:** City of Key West.
- 1.6. **Task Order:** A detailed description of a particular service or services to be performed by ENGINEER under this Agreement.

ARTICLE 2
PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and generally to express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1. The ENGINEER is not entitled to receive, and the CITY is not obligated to pay, any fees or expenses in excess of the amount budgeted for Task Orders authorized under this Agreement in each fiscal year (October 1-September 30) by CITY. The budgeted amount may only be modified per City Ordinance(s).
- 2.2. The CITY has met the requirements of the Engineers' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected ENGINEER to perform the services hereunder based on the Request for Qualifications 22-006 incorporated by reference and made a part hereof and the Response to the Request for Qualifications from Engineer dated December 12, 2022, incorporated by reference and made part of.
- 2.3. Negotiations pertaining to the services to be performed by ENGINEER were undertaken between ENGINEER and staff selected by the Commission, and this Agreement incorporates the results of such negotiations.

ARTICLE 3
SCOPE OF SERVICES AND STANDARD OF
CARE

- 3.1.** ENGINEER's services may include but are not limited to the following in regard to the Agreement:
 - 3.1.1.** Civil Engineering Services
 - 3.1.2.** Utility Engineering Services
 - 3.1.3.** Solid Waste Engineering Services
 - 3.1.4.** Coastal Engineering Services
 - 3.1.5.** Structural Engineering Services
- 3.2.** ENGINEER's services shall include comprehensive full-scale engineering, design, surveying, permit preparation, preparing contract specifications, preparing bid and proposal documents and assisting the City with technical review and ranking of the same to attain qualified contractors for work, environmental assessments, construction administration and owner project representation services relating to operation, new construction, permit modification, construction improvements, rehabilitation and or retrofits, and any other lawful professional Engineering services that the ENGINEER is qualified to provide, and that the CITY authorizes the ENGINEER to undertake in connection with this Agreement. ENGINEER shall provide all necessary, incidental and related activities and services as required.
- 3.3.** ENGINEER and CITY acknowledge that the Scope of Services does not delineate every detail and minor work task required to be performed by ENGINEER to complete any particular task order. If, during the course of the performance of the services included in this Agreement, ENGINEER determines that work should be performed to complete the Task Order which is, in the ENGINEER's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, ENGINEER shall notify Contract Administrator in writing in a timely manner before proceeding with the work. If ENGINEER proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work. Performance of work by ENGINEER outside the originally anticipated level of effort without prior written CITY approval or modification of Task Order is at ENGINEER's sole risk.
- 3.4.** The specific services to be provided by the ENGINEER and the compensation for such services shall be as mutually agreed to in separate Task Orders to this

AGREEMENT. Each Task Order when fully executed shall become a supplement to and a part of this AGREEMENT.

- 3.4.1. Each Task Order shall be supported by appropriate cost and pricing data and such other documentation as required by the CITY.
- 3.4.2. Task Orders shall be numbered consecutively as specified by CITY. Each Task Order shall include a description of the scope of services and specified deliverables, time of completion, total estimated costs of services, and method of compensation. Additional information shall be provided to the CITY if required. Amended Task Orders shall include substantially the same information and be submitted to the CITY for approval.
- 3.4.3. The CITY may make or approve changes within the general Scope of Services in any Task Order. If such changes affect the ENGINEER's cost of or time required for performance of the services, an equitable adjustment shall be made through an amendment to the Task Order.
- 3.4.4. A Task Order may be terminated at any time, with or without cause, by the CITY upon written notice to ENGINEER. ENGINEER shall perform no further work upon receipt of this notice unless specifically authorized by the City Manager of the City of Key West. On termination, the ENGINEER shall be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the Task Order. The CITY shall not pay for anticipatory profits. The termination of this Agreement pursuant to Paragraph 7.2, hereof, shall constitute the termination of any and all outstanding Task Orders.
- 3.4.5. The ENGINEER shall begin services under any Task Order when authorized by a Purchase Order issued by the CITY and delivered to ENGINEER.
- 3.5. The CITY and ENGINEER may negotiate additional scopes of services, compensation, time of performance and other related matters for each Task Order as allowed by this Agreement. If CITY and ENGINEER cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services from another source.
- 3.6. ENGINEER shall perform the professional services under this Agreement at the level customary for competent and prudent professionals in ENGINEER'S field performing such services at the time and place where the services are provided. In the event ENGINEER does not comply with this standard, and

omissions or errors are made by ENGINEER, ENGINEER will correct such work that contains errors or omissions.

- 3.7. ENGINEER is required to perform the Task Orders consistent with current applicable Federal, State and City laws, codes and regulations that pertain to the Task Order. In all Task Orders, where changes to any laws, codes or regulations affecting the Task Order have a Task Ordered effective date or are anticipated to be effective at a future date, or if knowledge of anticipated changes is available to ENGINEER or any sub-consultant, ENGINEER shall present options for their use or implementation.
- 3.8. Construction Responsibility - Notwithstanding anything in this Agreement, ENGINEER shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures, precautions and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by CITY's construction contractors.
- 3.9. Estimates - Since ENGINEER has no control over local conditions, the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, ENGINEER does not guarantee the accuracy of any opinions of probable construction cost as compared to construction contractor's bids or the actual cost to the CITY.

ARTICLE 4
TERM OF AGREEMENT; TIME FOR PERFORMANCE; CONTRACTOR
DAMAGES:

The term of this Agreement shall be for a period of three (3) years from the effective date of the Agreement with the option of a two (2) year renewal. The Agreement will be in effect upon execution by both parties. The Agreement may be renewed at the discretion of the CITY.

- 4.1.** ENGINEER shall perform the services described in each Task Order within the time periods specified. Each such time period shall commence from the date of the purchase order issued for such services.
- 4.2.** ENGINEER must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent Task Order. Prior to granting approval for ENGINEER to proceed to a subsequent Task Order, the Contract Administrator may, at his or her sole option, require ENGINEER to submit any deliverables/documents for the Contract Administrator's review.
- 4.3.** In the event ENGINEER is unable to complete the above services because of delays resulting from untimely review by CITY or other governmental authorities having jurisdiction over the Task Order, and such delays are not the fault of ENGINEER, or because of delays which were caused by factors outside the control of ENGINEER, CITY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of ENGINEER to notify CITY within 10 days in writing whenever a delay in approval by a governmental agency, including CITY, is anticipated or experienced, and to inform the Contract Administrator of all facts and details related to the delay.
- 4.4.** In the event the Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY or if Contractor is granted an extension of time beyond said substantial completion date, and ENGINEER's services are extended beyond the substantial completion date, through no fault of ENGINEER, ENGINEER shall be compensated in accordance with Article 5 for all services rendered by ENGINEER beyond the substantial completion date.
- 4.5.** In the event Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY, and the failure to substantially complete is caused in whole or in part by a negligent act, error or omission of ENGINEER, then ENGINEER shall pay to CITY its proportional share of any claim or direct damages to Contractor or CITY to the

extent arising out of the delay. This provision shall not affect the rights and obligations of either party as set forth in Paragraph 7.8, INDEMNIFICATION OF CITY.

ARTICLE 5
COMPENSATION AND METHOD OF PAYMENT

5.1. AMOUNT AND METHOD OF COMPENSATION

The types of compensation methods, which shall be used to pay for the ENGINEER's services, are limited to the following:

- 5.1.1. Lump sum payment/Not-to-Exceed, which includes compensation for all the ENGINEER'S salaries, general overhead costs, direct expenses, and profit.
- 5.1.1.1. If Work timing deviates from the assumed schedule for causes beyond ENGINEER's control, ENGINEER and/or the CITY reserves the right to request renegotiation of those portions of the lump sum affected by the time change. During construction contract administration, if tasked, it is agreed by both parties that whether construction is completed earlier or later, that a proportional part of the compensation will be adjusted and either given to ENGINEER for additional work or deleted from the amount owed ENGINEER for less time required.
- 5.1.1.2. In the event of a change of scope, CITY shall authorize in writing an appropriate decrease or increase in compensation.
- 5.1.1.3. Monthly invoicing will be based on an estimate of the percent of work completed at the end of the preceding month.
- 5.1.1.4. The ENGINEER shall submit wage rates and other actual unit costs supporting the compensation. The ENGINEER shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.
- 5.1.2. Cost Reimbursable-Per Diem (Time and Expenses)
- 5.1.2.1. Per diem rates are those hourly or daily rates charged for work performed on the WORK by ENGINEER's employees of the indicated classifications and include all salaries, overheads, and profit, but do not include allowances for Direct Expenses. These rates are subject to annual adjustments based on the Consumer Price Index Urban U.S. City Average All Items U.S. Department of Labor Bureau of Labor Statistics.
- 5.1.2.2. Hourly rates for the contract (ENGINEER AND Sub-consultants): See attached Exhibit A.
- 5.1.2.3. ENGINEER and Sub-consultants allowed annual wage adjustment on the Agreement effective anniversary dates shall not exceed the Data Resource Institute (DRI) forecast of wage and price escalation (the U.S. Bureau of Labor Statistics [BLS] Employment Cost Index [ECI] for Private Industry)

- 5.1.2.4. A budgetary amount will be established for each Task Order. This budgetary amount shall not be exceeded unless written approval is provided by the CITY. ENGINEER shall make reasonable efforts to complete the work within the budget and will keep CITY informed of progress toward that end so that the budget or work effort can be adjusted if found necessary.
- 5.1.2.5. ENGINEER is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CITY obligated to pay ENGINEER beyond these limit
- 5.1.2.6. When any budget has been increased, ENGINEER's excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increased.

5.2. REIMBURSABLE EXPENSES

- 5.2.1.1. Direct non-salary expenses, entitled Reimbursable Expenses, directly attributable to the Work shall be charged at actual cost, and shall be limited to the following:
- 5.2.1.2. Identifiable transportation expenses in connection with the Work, subject to the limitations of Section 112.061, Florida Statutes. There shall be no mileage reimbursement for travel within the City of Key West. Transportation expenses to locations outside the City area or from locations outside the City will not be reimbursed unless specifically pre- authorized in writing by the Contract Administrator.
- 5.2.1.3. Identifiable per diem, meals and lodgings, taxi fares, automobile rental, and miscellaneous travel- connected expenses for ENGINEER's personnel subject to the limitations of Section 112.061 Florida Statutes. Meals for class C travel inside the City of Key West will not be reimbursed. Lodging will be reimbursed only for room rates equivalent to Hampton Inn or Best Western located within the City of Key West city limits.
- 5.2.1.4. Identifiable communication expenses approved by Contract Administrator, long distance telephone, courier and express mail utilized to render the services required by this Agreement.
- 5.2.1.5. Cost of printing, reproduction or photography that is required by or of ENGINEER to deliver services set forth in this Agreement.
- 5.2.1.6. Identifiable testing costs approved by Contract Administrator.
- 5.2.1.7. All permit fees paid to regulatory agencies for approvals directly attributable to the Work. These permit fees do not include those permits required for the Contractor.
- 5.2.2. It is acknowledged and agreed to by ENGINEER that the dollar limitation set forth in paragraphs 5.2.1.1 through 5.2.1.7 is a limitation upon, and describes the maximum extent of, CITY's obligation to reimburse ENGINEER for direct, non-

salary expenses. If CITY or Contract Administrator requests ENGINEER to incur expenses not contemplated in the amount for Reimbursable Expenses, ENGINEER shall notify Contract Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by CITY prior to incurring such expenses.

5.2.3 All sub-consultants' hourly rates shall be billed in the actual amount paid by ENGINEER. Sub-consultant Reimbursable Expenses are limited to the items in Paragraphs 5.2.1.1 through 5.2.1.7 described above when the sub-consultant's agreement provides for reimbursable expenses.

5.3. METHOD OF BILLING

5.3.1 Lump Sum Compensation

ENGINEER shall submit billings identifying type of work completed on a monthly basis in a timely manner. These billings shall identify the nature of the work performed and the estimated percent of work accomplished. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, ENGINEER shall provide backup for past and current invoices that record hours, personnel, and expense costs on a task basis, so that total hours and costs by task may be determined.

5.3.2 Cost Reimbursable-Per Diem (Time and Expenses) Compensation

ENGINEER shall submit billings identifying the type of work completed on a monthly basis in a timely manner for all personnel hours and reimbursable expenses attributable to the Work. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category and name of the individuals performing same. Billings shall itemize and summarize reimbursable expenses by category and identify same as to the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for reimbursable expenses, a copy of the approval shall accompany the billing for such reimbursable. The statement shall show a summary of salary costs and reimbursable expenses with accrual of the total and credits for portions paid previously. External reimbursable expenses and sub-consultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain the purchase order number or other identifier that clearly indicates the expense is identifiable to the Work. Subsequent addition of the identifier to the invoice or receipt by the ENGINEER is not acceptable except for meals and travel expenses. Appropriate ENGINEER's cost accounting forms with a summary of charges must document internal expenses by category. When requested, ENGINEER shall provide backup for past and current invoices that records hours and rates by employee category, reimbursable expenses by category, and subcontractor fees on a task basis, so that total hours and costs by task may be determined.

5.3.3 If requested, ENGINEER shall provide copies of past paid invoices to any subcontractor or sub-consultant prior to receiving currently invoiced payment.

CITY reserves the right to pay any subcontractor or sub- consultant, if ENGINEER has not paid them timely (subject to any rightful dispute ENGINEER may have with their invoice) and the services of the subcontractor or sub- consultant are necessary to complete the Work.

5.4. METHOD OF PAYMENT

- 5.4.1 CITY shall pay ENGINEER within forty-five (45) calendar days from receipt of ENGINEER's proper invoice with documentation as provided above.
- 5.4.2 In the event ENGINEER has utilized a Sub-consultant to perform the Work, ENGINEER will be required to provide documentation that Sub-consultant and Sub-consultants of Sub-consultants have been paid (subject to Engineer's rightful dispute of any such payments) prior to currently invoiced payment being made to ENGINEER.
- 5.4.3 Payment will be made to ENGINEER at:

Address:

759 South Federal Highway, Suite 314
Stuart, FL 34994

ARTICLE 6
CITY'S RESPONSIBILITIES

- 6.1.** CITY shall assist ENGINEER by placing at ENGINEER's disposal all information CITY has available pertinent to the Task Order including previous reports and any other data relative to design or construction of the Task Order. ENGINEER shall have the right to rely, without independent verification, on information provided by the CITY.
- 6.2.** CITY shall arrange for access to, and make all provisions for, ENGINEER to enter upon public and private property as required for ENGINEER to perform its services.
- 6.3.** CITY shall review the ENGINEER's itemized deliverables/documents identified in the Task Orders and respond in writing with any comment within the time set forth in the Task Order or within a reasonable time.
- 6.4.** CITY shall give prompt written notice to ENGINEER whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services or any defect in the work of any Contract.

ARTICLE 7
MISCELLANEOUS

7.1. OWNERSHIP OF DOCUMENTS

All finished or unfinished documents, data, data matrices and calculations generated and used to evaluate and compute the construction or material requirements for the Task Order, studies, surveys, drawings, maps, models, photographs and reports prepared or provided by ENGINEER in connection with this Agreement, whether in hard copy or electronic form, shall become the property of CITY, whether the Task Order for which they are made is completed or not. If applicable, CITY may withhold any payments then due to ENGINEER until ENGINEER complies with the provisions of this Article. ENGINEER is not responsible for damages caused by the unauthorized re- use by others of any of the materials for another Task Order.

7.2. TERMINATION

7.2.1. This Agreement may be terminated with or without cause by CITY at any time.

7.2.2. Notice of termination shall be provided in accordance with paragraph
7.12 NOTICES of this Agreement.

7.2.3. In the event this Agreement is terminated, ENGINEER shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 7.1 of this Agreement are provided to the CITY. Upon being notified of CITY's election to terminate, ENGINEER shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall CITY make payment of profit for services that have not been performed.

7.3. AUDIT RIGHT AND RETENTION OF RECORDS

7.3.1. CITY shall have the right to audit the books, records, and accounts of ENGINEER that are related to any Task Order. ENGINEER shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Task Order.

7.3.2. ENGINEER shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by

CITY to be applicable to ENGINEER's records, ENGINEER shall comply with all requirements thereof; however, ENGINEER shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

7.4. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AMERICANS WITH DISABILITIES ACT, AND EQUAL BENEFITS FOR DOMESTIC PARTNERS

- 7.4.1. ENGINEER shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.
- 7.4.2. ENGINEER's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, gender identity or expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor that cannot be lawfully or appropriately used as a basis for service delivery. ENGINEER shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, gender identity or expression, marital status, political affiliation, or physical or mental disability. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeships), and accessibility.
- 7.4.3. Engineer shall comply with City Ordinance Sec. 2-799 Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

7.5. PUBLIC ENTITY CRIMES ACT

- 7.5.1. ENGINEER represents that the execution of this Agreement shall not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, engineer or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real

property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or engineer under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in being barred from CITY's competitive procurement activities.

- 7.5.2. In addition to the foregoing, ENGINEER further represents that there has been no determination, based on an audit, that it or any sub-consultant, has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether ENGINEER has been placed on the convicted vendor list.
- 7.5.3. ENGINEER shall promptly notify CITY if it or any subcontractor or sub-consultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

7.6. SUB-CONSULTANTS

ENGINEER may use the sub-consultants identified in the proposal that was a material part of the selection of ENGINEER to provide the services under this Agreement. The CITY reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultants in order to make determination as to the capability of the sub-consultant to perform properly under this Contract. The CITY's acceptance of a sub-consultant shall not be unreasonably withheld. ENGINEER shall obtain written approval of Contract Administrator prior to changing or adding to the list of sub-consultants. The list of sub-consultants submitted and currently approved is as follows:

- a. Smith Engineering Consultants, Inc.
- b. Universal Engineering Sciences, Inc.
- c. Nutting Engineers
- d. Ardaman & Associates, Inc.
- e. Blood Hound Underground Utility Locators
- f. Paul Lin & Associates, Inc.
- g. Pace Analytical Services
- h. Jupiter Environmental Laboratories, Inc.
- i. Groundwater Protection, Inc.
- j. Preferred Drilling Solutions, Inc.
- k. Betsy Lindsay, Inc.

- i. Avirom & Associates, Inc.
- m. Florida Keys Land Surveying
- n. ESD Waste2Water, Inc.
- o. Regenesis, Inc.
- p. Clark Environmental Inc.
- q. Southern Waste Services, Inc.
- r. M&D Industrial Services
- s. Engineered Environmental Solutions, Inc.
- t. Florida Air Quality Solutions
- u. Earth Tech Drilling
- v. NorthStar Geomatics, Inc.

Hourly rates for such said Sub-consultants are as on attached Exhibit A.

7.7. ASSIGNMENT AND PERFORMANCE

- 7.7.1. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and ENGINEER shall not subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 7.6.
- 7.7.2. ENGINEER represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to CITY's satisfaction for the agreed compensation.
- 7.7.3. ENGINEER shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of ENGINEER's performance and all interim and final product(s) provided to or on behalf of CITY shall be in accordance with the standard of care set forth in Paragraph 3.6.
- 7.7.4. ENGINEER shall not change or replace overall project manager identified in the ENGINEER's response to the RFQ without the Contract Administrator's prior written approval.

7.8. INDEMNIFICATION OF CITY

- 7.8.1. To the fullest extent permitted by law, the ENGINEER expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnities") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the

ENGINEER, its Subcontractors or persons employed or utilized by them in the performance of the Contract. Claims by indemnities for indemnification shall be limited to the amount of ENGINEER's insurance or \$1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.

- 7.8.2. The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the ENGINEER under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the ENGINEER or of any third party to whom ENGINEER may subcontract a part or all of the Work. This indemnification shall continue for a period of one (1) year beyond the date of completion of the Work.
- 7.8.3. In recognition of the relative risks and benefits of the project to both the ENGINEER and CITY, the risks have been allocated such that the CITY agrees, to the fullest extent permitted by law, to limit the liability of ENGINEER to the CITY and to all construction contractors and subcontractors on the project for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of ENGINEER to all those named shall not extend beyond one (1) year after completion of the services hereunder or exceed the total amount of compensation paid to ENGINEER hereunder up to the aggregate maximum amount of \$250,000. In no event shall either party be liable for any special, indirect or consequential damages, including specifically but without limitation, loss of profits or revenue, loss of use of any facility or property, including real property, cost of capital, loss of goodwill, and claims of customers.

Both the foregoing limit of liability and waiver of consequential damages shall apply to the fullest extent allowed by law irrespective of whether liability of ENGINEER is claimed, or found to be based in contract, tort or otherwise (including negligence, warranty, indemnity and strict liability).

7.9. INSURANCE

- 7.9.1. ENGINEER is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for workers' compensation, commercial general liability, and property damage liability insurance, and such other insurance coverages as may be required by specifications and addenda thereto, in the following amounts with specification amounts to prevail if greater than amounts indicated. Notwithstanding any other provision of the

Contract, the ENGINEER shall provide the following limits of liability insurance coverage as follows:

Auto Liability	\$1,000,000	Combined Single Limit
General Liability	\$2,000,000	Aggregate (Per Project)
	\$2,000,000	Products Aggregate
	\$1,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$ 300,000	Fire Damage/Legal
Professional Liability	\$2,000,000	Per Claim / Aggregate

- 7.9.2. ENGINEER shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as an additional insured on all policies— excepting Professional Liability—on a PRIMARY and NON-CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its equivalent, (combination of CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations, is acceptable) including a waiver of subrogation clause in favor of City of Key West on all policies except Professional Liability. ENGINEER will maintain the Professional Liability, General Liability, and Umbrella Liability insurance coverages summarized above with coverage continuing in full force including the additional insured endorsement until at least 3 years beyond completion and delivery of the work contracted herein.
- 7.9.3. Notwithstanding any other provision of the Contract, the ENGINEER shall maintain complete worker's compensation coverage for each and every employee, principal, officer, representative, or agent of the ENGINEER who is performing any labor, services, or material under the Contract. Further, ENGINEER shall additionally maintain the following limits of coverage:

Bodily Injury Each Accident	\$1,000,000
Bodily Injury by Disease Each Employee	\$1,000,000
Bodily Injury by Disease Policy Limit	\$1,000,000

- 7.9.4. If the work is being done on or near a navigable waterway, ENGINEER's workers compensation policy shall be endorsed to provide USL&H Act (WC 00 01 06 A) and Jones Act (WC 00 02 01 A) coverage if specified by the City of Key West. ENGINEER shall provide the City of Key West with a Certificate of Insurance verifying compliance with the workers' compensation coverage as set forth herein

and shall provide as often as required by the City of Key West such certification which shall also show the insurance company, policy number, effective and expiration date, and the limits of worker's compensation coverage under each policy.

- 7.9.5. ENGINEER's insurance policies shall be endorsed to give 30 days written notice to the City of Key West in the event of cancellation or material change, using form CG 02 24, or its equivalent.
- 7.9.6. Certificates of Insurance submitted to the City of Key West will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.
- 7.9.7. ENGINEER will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. ENGINEER will notify City of Key West immediately by telephone at (305) 809-3964 any accident or injury to anyone that occurs on the jobsite and is related to any of the work being performed by the ENGINEER.
- 7.9.8. It shall be the responsibility of the Engineer to ensure that all sub-consultants/subcontractors comply with the same insurance requirements as is required of Engineer.
- 7.9.9. In addition, it is understood if at any time any of the policies required by the City shall become unsatisfactory to the City as to form or substance, or if a company issuing any such policy shall become unsatisfactory to the City, the Engineer shall obtain a new policy, submit the same to the City for approval and submit a certificate of insurance as which may be required by the contract. It is understood that upon failure of the Engineer to furnish, deliver and maintain such insurance as required above, the contract at the election of the City may be declared suspended, discontinued or terminated. Further, failure of the Engineer to take out and/or maintain any required insurance shall not relieve the Engineer from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the Engineer concerning indemnification.

7.10. REPRESENTATIVE OF CITY AND ENGINEER

- 7.10.1. The parties recognize that questions in the day-to-day conduct of the Task Order will arise. The Contract Administrator, upon ENGINEER's request, shall advise ENGINEER in writing of one (!) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Task Order shall be addressed.

7.10.2. ENGINEER shall inform the Contract Administrator in writing of ENGINEER's representative to whom matters involving the conduct of the Task Order shall be addressed.

7.11. ALL PRIOR AGREEMENTS SUPERSEDED

7.11.1. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document and the exhibits attached. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

7.11.2. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

7.12. NOTICES

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR CITY OF KEY WEST:

City of Key West
1300 White Street
Key West, FL 33040

FOR ENGINEER:

Contact Name: Dave Frodsham, PE
Address: 759 S. Federal Highway, Suite 314
Stuart, FL 34994

7.13. TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by ENGINEER shall act as the execution of a truth-in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price for any Task Order and any additions thereto shall be adjusted to exclude any significant sums, by which CITY determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit

costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

7.14. INTERPRETATION

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence or paragraph where they appear, unless the context otherwise requires. Whenever reference is made to a Paragraph or Article of this Agreement, such reference is to the Paragraph or Article as a whole, including all of the subsections of such Paragraph, unless the reference is made to a particular subsection or subparagraph of such Paragraph or Article.

7.15. ENGINEER'S STAFF

- 7.15.1. ENGINEER shall provide the key staff identified in their proposal for Task Order as long as such key staffs are in ENGINEER's employment.
- 7.15.2. ENGINEER shall obtain prior written approval of Contract Administrator to change key staff. ENGINEER shall provide Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator shall be reasonable in evaluating key staff qualifications.
- 7.15.3. If Contract Administrator desires to request removal of any of ENGINEER's staff, Contract Administrator shall first meet with ENGINEER and provide reasonable justification for said removal.
- 7.15.4. The CITY reserves the right to approve the members of the Consulting Team and the roles they will undertake in the assignment. The CITY's acceptance of a team member shall not be unreasonably withheld.
- 7.15.5. Each assignment issued under this Agreement by the CITY to the Engineer, the Engineer will at the CITY's request, disclose the role, qualifications and hourly rate of each individual working on the assignment.
- 7.15.6. The CITY reserves the right to require replacement of any of the members of the Consulting Team. Any proposed addition or change of members of the Consulting Team initiated by the Engineer must obtain the CITY Representative's prior written approval.

7.15.7. In the event of the death, incapacity or termination of employment of any member of the Consulting Team before Completion of the Services, the Engineer shall at its own expense and as soon as reasonably practicable arrange to substitute or replace the individual member concerned.

7.15.8. The Engineer shall ensure that the substitute or replacement is no less qualified in terms of relevant experience and qualifications than the outgoing individual and is available at the relevant time to act as such replacement or substitute. The Engineer shall without delay forward curriculum vitae of the proposed substitute or replacement to the CITY. The deployment of such substitute or replacement shall be subject to the CITY's consent.

7.15.9. Reserved.

7.16. INDEPENDENT CONTRACTOR

ENGINEER is an independent contractor under this Agreement. Services provided by ENGINEER shall be subject to the supervision of ENGINEER. In providing the services, ENGINEER or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY, nor shall they accrue any of the rights or benefits of a CITY employee. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.17. THIRD PARTY BENEFICIARIES

Neither ENGINEER nor CITY intend directly or substantially to benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. No subcontractor or sub-consultant, whether named or unnamed, shall be a third party beneficiary of this Agreement.

7.18. CONFLICTS

7.18.1. Neither ENGINEER nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with ENGINEER's loyal and conscientious exercise of judgment related to its performance under this Agreement.

7.18.2. ENGINEER agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding.

7.18.3. In the event ENGINEER is permitted to use sub-consultants to perform any services required by this Agreement, ENGINEER agrees to prohibit such sub-consultants from having any conflicts as within the meaning of this section, and shall so notify them in writing.

7.19. CONTINGENCY FEE

ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for ENGINEER, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for ENGINEER, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

7.20. WAIVER OF BREACH AND MATERIALITY

7.20.1. Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.20.2. CITY and ENGINEER agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

7.21. COMPLIANCE WITH LAWS

ENGINEER shall comply with federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement applicable at the time the scope of services was drafted for this agreement. In addition, at the time each Task Order is executed, any revisions to applicable federal state, and local laws, codes, ordinances, rules and regulations shall apply.

7.22. SEVERABILITY

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or ENGINEER elects to terminate this Agreement.

7.23. JOINT PREPARATION

Preparation of this Agreement has been a joint effort of CITY and ENGINEER and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

7.24. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.25. APPLICABLE LAW AND VENUE

The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, arbitration or any other legal proceeding shall be Monroe County, Florida.

7.26. INCORPORATION BY REFERENCE

The attached exhibits are incorporated into and made a part of this Agreement:
Exhibit A – ENGINEER/Sub-consultants’ Hourly Rates

7.27. COUNTERPARTS

This Agreement may be executed in three (3) counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, the parties hereto have made and executed this
Agreement on the respective dates under each signature.

By: CITY OF KEY WEST

Patti McLaughlin
Patti McLaughlin, City Manager

By: ENGINEER

Becky Proctor
(Signature)
Becky Proctor
(Print Name and Title)

28 day of March 2023

21st day of March 2023



Attest:

Cheryl Smith
Cheryl Smith, City Clerk

Attest:

Marirose Insgina
(Signature)

Marirose Insgina
(Print Name and Title)

28 day of March 2023

21st day of March 2023

Exhibit A

Hourly Fee Schedule

Company Name: _____ **Date:** _____

Position Title	Hourly Rate
-----------------------	--------------------

TETRA TECH, INC.
Schedule of Hourly Rates

Engineers / Scientists / Planners / GIS / Project Support

CLASSIFICATION	RATE
Principal III	\$298.00
Principal II	\$287.00
Principal I	\$276.00
Senior Consultant IV	\$266.00
Senior Consultant III	\$255.00
Senior Consultant II	\$243.00
Senior Consultant I	\$232.00
Manager V	\$221.00
Manager IV	\$212.00
Manager III	\$204.00
Manager II	\$195.00
Manager I	\$186.00
Senior Staff V	\$177.00
Senior Staff IV	\$168.00
Senior Staff III	\$160.00
Senior Staff II	\$151.00
Senior Staff I	\$143.00
Project Staff V	\$134.00
Project Staff IV	\$126.00
Project Staff III	\$117.00
Project Staff II	\$109.00
Project Staff I	\$100.00
Junior Staff III	\$92.00
Junior Staff II	\$83.00
Junior Staff I	\$74.00

Rates are good through 2023 only and are subject to annual escalation thereafter.

Rates include direct labor, overhead, G&A, and fee.

Expert Witness Testimony will be negotiated if needed.

All other direct costs and subcontract costs will be charged at cost plus 10%.

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LICENSEE DETAILS

5:31:43 PM 2/27/2023

Licensee Information

Name: **TETRA TECH, INC (Primary Name)**Main Address: **201 E PINE STREET
UNIT 1000
ORLANDO Florida 32801**County: **ORANGE**License Mailing: **3475 E FOOTHILL BLVD
PASADENA CA 91107**County: **OUT OF STATE**

License Information

License Type: **Engineering Business Registry**Rank: **Registry**License Number: **2429**Status: **Current**Licensure Date: **05/10/1977**

Expires:

Special Qualifications

Qualification Effective

Alternate Names

[View Related License Information](#)
[View License Complaint](#)

2601 Blair Stone Road, Tallahassee FL 32399 :: Email: Customer Contact Center :: Customer Contact Center: 850.487.1395

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However email addresses are public record. If you do not wish to supply a personal address, please provide the Department with an email address which can be made available to the public. Please see our Chapter 455 page to determine if you are affected by this change.



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
03/22/2023

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

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

PRODUCER Aon Risk Insurance Services West, Inc. Los Angeles CA Office 707 Wilshire Boulevard Suite 2600 Los Angeles CA 90017-0460 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122	FAX (A/C. No.): (800) 363-0105
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Zurich American Ins Co	16535
	INSURER B: Allied World Surplus Lines Insurance Co	24319
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGEs CERTIFICATE NUMBER: 570098420930 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.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR X C. U Coverage			GLO181740604	10/01/2022	10/01/2023	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ex. occurrences) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000
	GENL AGGREGATE LIMIT APPLIES PER: POLICY <input checked="" type="checkbox"/> PRO- JECT <input checked="" type="checkbox"/> LOC OTHER:						
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY Hired AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY			BAP 1857085 04	10/01/2022	10/01/2023	COMBINED SINGLE LIMIT (Ex. accident) \$5,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	UMBRELLA LIAB EXCESS LIAB DED RETENTION						EACH OCCURRENCE AGGREGATE
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	WC254061604 AOS WC185708704 WI	10/01/2022	10/01/2023	X PER STATUTE OTHER EL EACH ACCIDENT \$1,000,000 EL DISEASE-Ex.EMPLOYEE \$1,000,000 EL DISEASE-POLICY LIMIT \$1,000,000
B	Environmental Contractors and Prof			03120276 Prof/Poll-Claims Made Cov SIR applies per policy terms & conditions	10/01/2022	10/01/2023	Each Claim \$2,000,000 Aggregate \$2,000,000

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

RE: General Engineering Services Contract signed March 2023. Certificate Holder is included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies as required by written contract. General Liability policy evidenced herein is Primary and Non-Contributory to other insurance available to an Additional Insured, but only in accordance with the policy's provisions as required by written contract. A Waiver of Subrogation is granted in favor of Certificate Holder in accordance with the policy provisions of the General Liability, Automobile Liability and Workers' Compensation policies as required by written contract. Should General Liability, Automobile Liability and Workers' Compensation policies be cancelled before the expiration date thereof, the policy provisions will govern

CERTIFICATE HOLDER

CANCELLATION

City of Key West 1300 White St. Key West FL 33040 USA	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>Aon Risk Insurance Services West Inc.</i>

Holder Identifier : 18

570098420930

Certificate No :





AGENCY CUSTOMER ID: 570000036654

LOC #:

ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY Aon Risk Insurance Services West, Inc.	NAMED INSURED Tetra Tech, Inc.	
POLICY NUMBER See Certificate Number: 570098420930		
CARRIER See Certificate Number: 570098420930	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM.

FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Additional Description of Operations / Locations / Vehicles:

how notice of cancellation may be delivered to Certificate Holders in accordance with the policy provisions of each policies.

AGREEMENT

between

CITY OF KEY WEST

and

KCI Technologies, Inc.

for

GENERAL ENGINEERING SERVICES

KEY WEST, FLORIDA

This is an Agreement between: CITY OF KEY WEST, its successors and assigns, hereinafter referred to as "CITY," and KCI Technologies, Inc., a corporation organized under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "ENGINEER".

W I T N E S S E T H, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and ENGINEER agree as follows:

ARTICLE 1

DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

- 1.1. Agreement:** This document, Articles 1 through 7, inclusive. Other terms and conditions are included in the CITY's RFQ 23-006, ENGINEER's Response to RFQ dated December 7th, 2022 exhibits, Task Orders, and supplemental documents that are by this provision expressly incorporated herein by reference.
- 1.2. Commissioners:** Members of the City Commission with all legislative powers of the CITY vested therein.
- 1.3. ENGINEER:** The firm selected to perform the services pursuant to this Agreement.
- 1.4. Contract Administrator:** The ranking managerial employee of the CITY or some other employee expressly designated as Contract Administrator by the City Manager, who is the representative of the CITY. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.5. Contractor:** The person, firm, corporation or other entity that enters into an agreement with CITY to perform the construction work for the Task Order.
- 1.6. CITY:** City of Key West.
- 1.7. Task Order:** A detailed description of a particular service or services to be performed by ENGINEER under this Agreement.

ARTICLE 2

PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and generally to express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1.** The ENGINEER is not entitled to receive, and the CITY is not obligated to pay, any fees or expenses in excess of the amount budgeted for Task Orders authorized under this Agreement in each fiscal year (October 1-September 30) by CITY. The budgeted amount may only be modified per City Ordinance(s).
- 2.2.** The CITY has met the requirements of the Engineers' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected ENGINEER to perform the services hereunder based on the Request for Qualifications 23-006 incorporated by reference and made a part hereof and the Response to the Request for Qualifications from Engineer dated December 7th, 2022 incorporated by reference and made part of.
- 2.3.** Negotiations pertaining to the services to be performed by ENGINEER were undertaken between ENGINEER and staff selected by the Commission, and this Agreement incorporates the results of such negotiations.

ARTICLE 3

SCOPE OF SERVICES AND STANDARD OF CARE

3.1. ENGINEER's services may include but are not limited to the following in regard to the Agreement:

- 3.1.1. Civil Engineering Services
- 3.1.2. Utility Engineering Services
- 3.1.3. Solid Waste Engineering Services
- 3.1.4. Coastal Engineering Services
- 3.1.5. Structural Engineering Services

3.2. ENGINEER's services shall include comprehensive full-scale engineering, design, surveying, permit preparation, preparing contract specifications, preparing bid and proposal documents and assisting the City with technical review and ranking of the same to attain qualified contractors for work, environmental assessments, construction administration and owner project representation services relating to operation, new construction, permit modification, construction improvements, rehabilitation and or retrofits, and any other lawful professional Engineering services that the ENGINEER is qualified to provide, and that the CITY authorizes the ENGINEER to undertake in connection with this Agreement. ENGINEER shall provide all necessary, incidental and related activities and services as required.

3.3. ENGINEER and CITY acknowledge that the Scope of Services does not delineate every detail and minor work task required to be performed by ENGINEER to complete any particular task order. If, during the course of the performance of the services included in this Agreement, ENGINEER determines that work should be performed to complete the Task Order which is, in the ENGINEER's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, ENGINEER shall notify Contract Administrator in writing in a timely manner before proceeding with the work. If ENGINEER proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work. Performance of work by ENGINEER outside the originally anticipated level of effort without prior written CITY approval or modification of Task Order is at ENGINEER's sole risk.

3.4. The specific services to be provided by the ENGINEER and the compensation for such services shall be as mutually agreed to in separate Task Orders to this AGREEMENT. Each Task Order when fully executed shall become a supplement to and a part of this AGREEMENT.

3.4.1. Each Task Order shall be supported by appropriate cost and pricing data and such other documentation as required by the CITY.

3.4.2. Task Orders shall be numbered consecutively as specified by CITY. Each Task Order shall include a description of the scope of services and specified deliverables, time of completion, total estimated costs of services, and method of compensation. Additional information shall be provided to the CITY if required. Amended Task Orders shall include substantially the same information and be submitted to the CITY for approval.

3.4.3. The CITY may make or approve changes within the general Scope of Services in any Task Order. If such changes affect the ENGINEER's cost of or time required for performance of

the services, an equitable adjustment shall be made through an amendment to the Task Order.

3.4.4. A Task Order may be terminated at any time, with or without cause, by the CITY upon written notice to ENGINEER. ENGINEER shall perform no further work upon receipt of this notice unless specifically authorized by the City Manager of the City of Key West. On termination, the ENGINEER shall be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the Task Order. The CITY shall not pay for anticipatory profits. The termination of this Agreement pursuant to Paragraph 7.2, hereof, shall constitute the termination of any and all outstanding Task Orders.

3.4.5. The ENGINEER shall begin services under any Task Order when authorized by a Purchase Order issued by the CITY and delivered to ENGINEER.

3.5. The CITY and ENGINEER may negotiate additional scopes of services, compensation, time of performance and other related matters for each Task Order as allowed by this Agreement. If CITY and ENGINEER cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services from another source.

3.6. ENGINEER shall perform the professional services under this Agreement at the level customary for competent and prudent professionals in ENGINEER'S field performing such services at the time and place where the services are provided. In the event ENGINEER does not comply with this standard, and omissions or errors are made by ENGINEER, ENGINEER will correct such work that contains errors or omissions and reimburse CITY through compensation for damages.

3.7. ENGINEER is required to perform the Task Orders consistent with current applicable Federal, State and City laws, codes and regulations that pertain to the Task Order. In all Task Orders, where changes to any laws, codes or regulations affecting the Task Order have a Task Order effective date or are anticipated to be effective at a future date, or if knowledge of anticipated changes is available to ENGINEER or any sub-consultant, ENGINEER shall present options for their use or implementation.

3.8. Construction Responsibility - Notwithstanding anything in this Agreement, ENGINEER shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures, precautions and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by CITY's construction contractors.

3.9. Estimates - Since ENGINEER has no control over local conditions, the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, ENGINEER does not guarantee the accuracy of any opinions of probable construction cost as compared to construction contractor's bids or the actual cost to the CITY.

TERM OF AGREEMENT; TIME FOR PERFORMANCE; CONTRACTOR DAMAGES:

The term of this Agreement shall be for a period of three (3) years from the effective date of the Agreement with the option of a two (2) year renewal. The Agreement will be in effect upon execution by both parties. The Agreement may be renewed at the discretion of the CITY.

- 4.1.** ENGINEER shall perform the services described in each Task Order within the time periods specified. Each such time period shall commence from the date of the purchase order issued for such services.
- 4.2.** ENGINEER must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent Task Order. Prior to granting approval for ENGINEER to proceed to a subsequent Task Order, the Contract Administrator may, at his or her sole option, require ENGINEER to submit any deliverables/documents for the Contract Administrator's review.
- 4.3.** In the event ENGINEER is unable to complete the above services because of delays resulting from untimely review by CITY or other governmental authorities having jurisdiction over the Task Order, and such delays are not the fault of ENGINEER, or because of delays which were caused by factors outside the control of ENGINEER, CITY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of ENGINEER to notify CITY within 10 days in writing whenever a delay in approval by a governmental agency, including CITY, is anticipated or experienced, and to inform the Contract Administrator of all facts and details related to the delay.
- 4.4.** In the event the Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY or if Contractor is granted an extension of time beyond said substantial completion date, and ENGINEER's services are extended beyond the substantial completion date, through no fault of ENGINEER, ENGINEER shall be compensated in accordance with Article 5 for all services rendered by ENGINEER beyond the substantial completion date.
- 4.5.** In the event Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY, and the failure to substantially complete is caused in whole or in part by a negligent act, error or omission of ENGINEER, then ENGINEER shall pay to CITY its proportional share of any claim or damages to Contractor or CITY arising out of the delay. This provision shall not affect the rights and obligations of either party as set forth in Paragraph 7.8, INDEMNIFICATION OF CITY.

COMPENSATION AND METHOD OF PAYMENT

5.1. AMOUNT AND METHOD OF COMPENSATION

The types of compensation methods, which shall be used to pay for the ENGINEER's services, are limited to the following:

5.1.1. Lump sum payment/Not-to-Exceed, which includes compensation for all the ENGINEER'S salaries, general overhead costs, direct expenses, and profit.

5.1.1.1. If Work timing deviates from the assumed schedule for causes beyond ENGINEER's control, ENGINEER and/or the CITY reserves the right to request renegotiation of those portions of the lump sum affected by the time change. During construction contract administration, if tasked, it is agreed by both parties that whether construction is completed earlier or later, that a proportional part of the compensation will be adjusted and either given to ENGINEER for additional work or deleted from the amount owed ENGINEER for less time required.

5.1.1.2. In the event of a change of scope, CITY shall authorize in writing an appropriate decrease or increase in compensation.

5.1.1.3. Monthly invoicing will be based on an estimate of the percent of work completed at the end of the preceding month.

5.1.1.4. The ENGINEER shall submit wage rates and other actual unit costs supporting the compensation. The ENGINEER shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.

5.1.2. Cost Reimbursable-Per Diem (Time and Expenses)

5.1.2.1. Per diem rates are those hourly or daily rates charged for work performed on the WORK by ENGINEER's employees of the indicated classifications and include all salaries, overheads, and profit, but do not include allowances for Direct Expenses. These rates are subject to annual adjustments based on the Consumer Price Index Urban U.S. City Average All Items U.S. Department of Labor Bureau of Labor Statistics.

5.1.2.2. Hourly rates for the contract (ENGINEER AND Sub-consultants): See attached Exhibit A.

5.1.2.3. ENGINEER and Sub-consultants allowed annual wage adjustment on the Agreement effective anniversary dates shall not exceed the Data Resource Institute (DRI) forecast of wage and price escalation (the U.S. Bureau of Labor Statistics [BLS] Employment Cost Index [ECI] for Private Industry)

5.1.2.4. A budgetary amount will be established for each Task Order. This budgetary amount shall not be exceeded unless written approval is provided by the CITY. ENGINEER shall make reasonable efforts to complete the work within the budget and will keep CITY informed of progress toward that end so that the budget or work effort can be adjusted if found necessary.

5.1.2.5. ENGINEER is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CITY obligated to pay ENGINEER beyond these limit

5.1.2.6. When any budget has been increased, ENGINEER's excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increased.

5.2. REIMBURSABLE EXPENSES

5.2.1.1. Direct non-salary expenses, entitled Reimbursable Expenses, directly attributable to the Work shall be charged at actual cost, and shall be limited to the following:

5.2.1.2. Identifiable transportation expenses in connection with the Work, subject to the limitations of Section 112.061, Florida Statutes. There shall be no mileage reimbursement for travel within the City of Key West. Transportation expenses to locations outside the City area or from locations outside the City will not be reimbursed unless specifically pre-authorized in writing by the Contract Administrator.

5.2.1.3. Identifiable per diem, meals and lodgings, taxi fares, automobile rental, and miscellaneous travel-connected expenses for ENGINEER's personnel subject to the limitations of Section 112.061 Florida Statutes. Meals for class C travel inside the City of Key West will not be reimbursed. Lodging will be reimbursed only for room rates equivalent to Hampton Inn or Best Western located within the City of Key West city limits.

5.2.1.4. Identifiable communication expenses approved by Contract Administrator, long distance telephone, courier and express mail utilized to render the services required by this Agreement.

5.2.1.5. Cost of printing, reproduction or photography that is required by or of ENGINEER to deliver services set forth in this Agreement.

5.2.1.6. Identifiable testing costs approved by Contract Administrator.

5.2.1.7. All permit fees paid to regulatory agencies for approvals directly attributable to the Work. These permit fees do not include those permits required for the Contractor.

5.2.2. It is acknowledged and agreed to by ENGINEER that the dollar limitation set forth in paragraphs 5.2.1.1 through 5.2.1.7 is a limitation upon, and describes the maximum extent of, CITY's obligation to reimburse ENGINEER for direct, non-salary expenses. If CITY or Contract Administrator requests ENGINEER to incur expenses not contemplated in the amount for Reimbursable Expenses, ENGINEER shall notify Contract Administrator

in writing before incurring such expenses. Any such expenses shall be reviewed and approved by CITY prior to incurring such expenses.

5.2.3. All sub-consultants' hourly rates shall be billed in the actual amount paid by ENGINEER. Sub- consultant Reimbursable Expenses are limited to the items in Paragraphs 5.2.1.1 through 5.2.1.7 described above when the sub-consultant's agreement provides for reimbursable expenses.

5.3. METHOD OF BILLING

5.3.1. Lump Sum Compensation

ENGINEER shall submit billings identifying type of work completed on a monthly basis in a timely manner. These billings shall identify the nature of the work performed and the estimated percent of work accomplished. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, ENGINEER shall provide backup for past and current invoices that record hours, personnel, and expense costs on a task basis, so that total hours and costs by task may be determined.

5.3.2. Cost Reimbursable-Per Diem (Time and Expenses) Compensation

ENGINEER shall submit billings identifying the type of work completed on a monthly basis in a timely manner for all personnel hours and reimbursable expenses attributable to the Work. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category and name of the individuals performing same. Billings shall itemize and summarize reimbursable expenses by category and identify same as to the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for reimbursable expenses, a copy of the approval shall accompany the billing for such reimbursable. The statement shall show a summary of salary costs and reimbursable expenses with accrual of the total and credits for portions paid previously. External reimbursable expenses and sub-consultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain the purchase order number or other identifier that clearly indicates the expense is identifiable to the Work. Subsequent addition of the identifier to the invoice or receipt by the ENGINEER is not acceptable except for meals and travel expenses. Appropriate ENGINEER's cost accounting forms with a summary of charges must document internal expenses by category. When requested, ENGINEER shall provide backup for past and current invoices that records hours and rates by employee category, reimbursable expenses by category, and subcontractor fees on a task basis, so that total hours and costs by task may be determined.

5.3.3. If requested, ENGINEER shall provide copies of past paid invoices to any subcontractor or sub-consultant prior to receiving payment. CITY reserves the right to pay any subcontractor or sub- consultant, if ENGINEER has not paid them timely and the services of the subcontractor or sub- consultant are necessary to complete the Work.

5.4. METHOD OF PAYMENT

5.4.3. CITY shall pay ENGINEER within forty-five (45) calendar days from receipt of ENGINEER's proper invoice with documentation as provided above.

5.4.3. In the event ENGINEER has utilized a Sub-consultant to perform the Work, ENGINEER will be required to provide documentation that Sub-consultant and Sub-consultants of Sub-consultants have been paid prior to payment being made to ENGINEER.

5.4.3. Payment will be made to ENGINEER

at:

Address: P. O. Box 791479
Baltimore, Maryland 21279

ARTICLE 6

CITY 'S RESPONSIBILITIES

- 6.1.** CITY shall assist ENGINEER by placing at ENGINEER's disposal all information CITY has available pertinent to the Task Order including previous reports and any other data relative to design or construction of the Task Order.
- 6.2.** CITY shall arrange for access to, and make all provisions for, ENGINEER to enter upon public and private property as required for ENGINEER to perform its services.
- 6.3.** CITY shall review the ENGINEER's itemized deliverables/documents identified in the Task Orders and respond in writing with any comment within the time set forth in the Task Order or within a reasonable time.
- 6.4.** CITY shall give prompt written notice to ENGINEER whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services or any defect in the work of any Contract.

ARTICLE 7

MISCELLANEOUS

7.1. OWNERSHIP OF DOCUMENTS

All finished or unfinished documents, data, data matrices and calculations generated and used to evaluate and compute the construction or material requirements for the Task Order, studies, surveys, drawings, maps, models, photographs and reports prepared or provided by ENGINEER in connection with this Agreement, whether in hard copy or electronic form, shall become the property of CITY, whether the Task Order for which they are made is completed or not. If applicable, CITY may withhold any payments then due to ENGINEER until ENGINEER complies with the provisions of this Article. ENGINEER is not responsible for damages caused by the unauthorized re- use by others of any of the materials for another Task Order.

7.2. TERMINATION

- 7.2.1. This Agreement may be terminated with or without cause by CITY at any time.
- 7.2.2. Notice of termination shall be provided in accordance with paragraph 7.12 NOTICES of this Agreement.
- 7.2.3. In the event this Agreement is terminated, ENGINEER shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 7.1 of this Agreement are provided to the CITY. Upon being notified of CITY's election to terminate, ENGINEER shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall CITY make payment of profit for services that have not been performed.

7.3. AUDIT RIGHT AND RETENTION OF RECORDS

- 7.3.1. CITY shall have the right to audit the books, records, and accounts of ENGINEER that are related to any Task Order. ENGINEER shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Task Order.

7.3.2. ENGINEER shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to ENGINEER's records, ENGINEER shall comply with all requirements thereof; however, ENGINEER shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

7.4. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AMERICANS WITH DISABILITIES ACT, AND EQUAL BENEFITS FOR DOMESTIC PARTNERS

7.4.1. ENGINEER shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.

7.4.2. ENGINEER's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, gender identity or expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor that cannot be lawfully or appropriately used as a basis for service delivery. ENGINEER shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, gender identity or expression, marital status, political affiliation, or physical or mental disability. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeships), and accessibility.

7.4.3. Engineer shall comply with City Ordinance Sec. 2-799 Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

7.5. PUBLIC ENTITY CRIMES ACT

7.5.1. ENGINEER represents that the execution of this Agreement shall not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, engineer or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or engineer under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in being barred from CITY's competitive procurement activities.

7.5.2. In addition to the foregoing, ENGINEER further represents that there has been no determination, based on an audit, that it or any sub-consultant, has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether ENGINEER has been placed on the convicted vendor list.

7.5.3. ENGINEER shall promptly notify CITY if it or any subcontractor or sub-consultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

7.6. SUB-CONSULTANTS

ENGINEER may use the sub-consultants identified in the proposal that was a material part of the selection of ENGINEER to provide the services under this Agreement. The CITY reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultants in order to make determination as to the capability of the sub-consultant to perform properly under this Contract. The CITY's acceptance of a sub-consultant shall not be unreasonably withheld. ENGINEER shall obtain written approval of Contract Administrator prior to changing or adding to the list of sub-consultants. The list of sub-consultants submitted and currently approved is as follows:

a. Kittelson & Associates, Inc.
b. _____

- c. _____
- d. _____

Hourly rates for such said Sub-consultants are as on attached Exhibit A.

7.7. ASSIGNMENT AND PERFORMANCE

- 7.7.1. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and ENGINEER shall not subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 7.6.
- 7.7.2. ENGINEER represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to CITY's satisfaction for the agreed compensation.
- 7.7.3. ENGINEER shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of ENGINEER's performance and all interim and final product(s) provided to or on behalf of CITY shall be in accordance with the standard of care set forth in Paragraph 3.6.
- 7.7.4. ENGINEER shall not change or replace overall project manager identified in the ENGINEER's response to the RFQ without the Contract Administrator's prior written approval.

7.8. INDEMNIFICATION OF CITY

- 7.8.1. To the fullest extent permitted by law, the ENGINEER expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnities") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the ENGINEER, its Subcontractors or persons employed or utilized by them in the performance of the Contract. Claims by indemnities for indemnification shall be limited to the amount of ENGINEER's insurance or \$1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.
- 7.8.2. The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the ENGINEER under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the ENGINEER or of any

third party to whom ENGINEER may subcontract a part or all of the Work. This indemnification shall continue beyond the date of completion of the Work.

7.9. INSURANCE

7.9.1. ENGINEER is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for workers' compensation, public liability, and property damage liability insurance, and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts to prevail if greater than minimum amounts indicated. Notwithstanding any other provision of the Contract, the ENGINEER shall provide the minimum limits of liability insurance coverage as follows:

Auto Liability	\$1,000,000	Combined Single Limit
General Liability	\$2,000,000	Aggregate (Per Project)
	\$2,000,000	Products Aggregate
	\$1,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$ 300,000	Fire Damage/Legal
Professional Liability	\$2,000,000	Per Claim / Aggregate

7.9.2. ENGINEER shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as an additional insured on all policies—excepting Professional Liability—on a PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its equivalent, (combination of CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations, is acceptable) including a waiver of subrogation clause in favor of City of Key West on all policies. ENGINEER will maintain the Professional Liability, General Liability, and Umbrella Liability insurance coverages summarized above with coverage continuing in full force including the additional insured endorsement until at least 3 years beyond completion and delivery of the work contracted herein.

7.9.3. Notwithstanding any other provision of the Contract, the ENGINEER shall maintain complete worker's compensation coverage for each and every employee, principal, officer, representative, or agent of the ENGINEER who is performing any labor, services, or material under the Contract. Further, ENGINEER shall additionally maintain the following minimum limits of coverage:

Bodily Injury Each Accident	\$1,000,000
Bodily Injury by Disease Each Employee	\$1,000,000
Bodily Injury by Disease Policy Limit	\$1,000,000

7.9.4. If the work is being done on or near a navigable waterway, ENGINEER's workers

compensation policy shall be endorsed to provide USL&H Act (WC 00 01 06 A) and Jones Act (WC 00 02 01 A) coverage if specified by the City of Key West. ENGINEER shall provide the City of Key West with a Certificate of Insurance verifying compliance with the workers' compensation coverage as set forth herein and shall provide as often as required by the City of Key West such certification which shall also show the insurance company, policy number, effective and expiration date, and the limits of worker's compensation coverage under each policy.

7.9.5. ENGINEER's insurance policies shall be endorsed to give 30 days written notice to the City of Key West in the event of cancellation or material change, using form CG 02 24, or its equivalent.

7.9.6. Certificates of Insurance submitted to the City of Key West will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.

7.9.7. ENGINEER will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. ENGINEER will notify City of Key West immediately by telephone at (305) 809-3964 any accident or injury to anyone that occurs on the jobsite and is related to any of the work being performed by the ENGINEER.

7.9.8. It shall be the responsibility of the Engineer to ensure that all sub-consultants/subcontractors comply with the same insurance requirements as is required of Engineer.

7.9.9. In addition, it is understood if at any time any of the policies required by the City shall become unsatisfactory to the City as to form or substance, or if a company issuing any such policy shall become unsatisfactory to the City, the Engineer shall obtain a new policy, submit the same to the City for approval and submit a certificate of insurance as which may be required by the contract. It is understood that upon failure of the Engineer to furnish, deliver and maintain such insurance as required above, the contract at the election of the City may be declared suspended, discontinued or terminated. Further, failure of the Engineer to take out and/or maintain any required insurance shall not relieve the Engineer from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the Engineer concerning indemnification.

7.10. REPRESENTATIVE OF CITY AND ENGINEER

7.10.1. The parties recognize that questions in the day-to-day conduct of the Task Order will arise. The Contract Administrator, upon ENGINEER's request, shall advise ENGINEER in writing of one (1) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Task Order shall be addressed.

7.10.2. ENGINEER shall inform the Contract Administrator in writing of

ENGINEER's representative to whom matters involving the conduct of the Task Order shall be addressed.

7.11. ALL PRIOR AGREEMENTS SUPERSEDED

- 7.11.1. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document and the exhibits attached. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.
- 7.11.2. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

7.12. NOTICES

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR CITY OF KEY WEST:

City of Key West
1300 White Street
Key West, FL 33040

FOR ENGINEER:

Contact Name: C. Bryan Wilson, PE
Address: KCI Technologies, Inc.
1425 West Cypress Creek Rd., Suite 101
Fort Lauderdale, Florida 33309

7.13. TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by ENGINEER shall act as the execution of a truth-in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of

contracting. The original contract price for any Task Order and any additions thereto shall be adjusted to exclude any significant sums, by which CITY determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

7.14. INTERPRETATION

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence or paragraph where they appear, unless the context otherwise requires. Whenever reference is made to a Paragraph or Article of this Agreement, such reference is to the Paragraph or Article as a whole, including all of the subsections of such Paragraph, unless the reference is made to a particular subsection or subparagraph of such Paragraph or Article.

7.15. ENGINEER'S STAFF

- 7.15.1. ENGINEER shall provide the key staff identified in their proposal for Task Order as long as such key staffs are in ENGINEER's employment.
- 7.15.2. ENGINEER shall obtain prior written approval of Contract Administrator to change key staff. ENGINEER shall provide Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator shall be reasonable in evaluating key staff qualifications.
- 7.15.3. If Contract Administrator desires to request removal of any of ENGINEER's staff, Contract Administrator shall first meet with ENGINEER and provide reasonable justification for said removal.
- 7.15.4. The CITY reserves the right to approve the members of the Consulting Team and the roles they will undertake in the assignment. The CITY's acceptance of a team member shall not be unreasonably withheld.
- 7.15.5. Each assignment issued under this Agreement by the CITY to the Engineer, the Engineer will at the CITY's request, disclose the role, qualifications and hourly rate of each individual working on the assignment.
- 7.15.6. The CITY reserves the right to require replacement of any of the members of the Consulting Team. Any proposed addition or change of members of the Consulting Team initiated by the Engineer must obtain the CITY Representative's prior written approval.

7.15.7. In the event of the death, incapacity or termination of employment of any member of the Consulting Team before Completion of the Services, the Engineer shall at its own expense and as soon as reasonably practicable arrange to substitute or replace the individual member concerned.

7.15.8. The Engineer shall ensure that the substitute or replacement is no less qualified in terms of relevant experience and qualifications than the outgoing individual and is available at the relevant time to act as such replacement or substitute. The Engineer shall without delay forward curriculum vitae of the proposed substitute or replacement to the CITY. The deployment of such substitute or replacement shall be subject to the CITY's consent.

7.15.9. The Engineer shall solely be responsible for all direct, indirect and consequential costs or losses that may arise from the substitution or replacement of members of the Consulting Team.

7.16. INDEPENDENT CONTRACTOR

ENGINEER is an independent contractor under this Agreement. Services provided by ENGINEER shall be subject to the supervision of ENGINEER. In providing the services, ENGINEER or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY, nor shall they accrue any of the rights or benefits of a CITY employee. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.17. THIRD PARTY BENEFICIARIES

Neither ENGINEER nor CITY intend directly or substantially to benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. No subcontractor or sub-consultant, whether named or unnamed, shall be a third party beneficiary of this Agreement.

7.18. CONFLICTS

7.18.1. Neither ENGINEER nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with ENGINEER's loyal and conscientious exercise of judgment related to its performance under this Agreement.

7.18.2. ENGINEER agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal

proceeding.

7.18.3. In the event ENGINEER is permitted to use sub-consultants to perform any services required by this Agreement, ENGINEER agrees to prohibit such sub-consultants from having any conflicts as within the meaning of this section, and shall so notify them in writing.

7.19. CONTINGENCY FEE

ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for ENGINEER, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for ENGINEER, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

7.20. WAIVER OF BREACH AND MATERIALITY

7.20.1. Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.20.2. CITY and ENGINEER agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

7.21. COMPLIANCE WITH LAWS

ENGINEER shall comply with federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement applicable at the time the scope of services was drafted for this agreement. In addition, at the time each Task Order is executed, any revisions to applicable federal state, and local laws, codes, ordinances, rules and regulations shall apply.

7.22. SEVERABILITY

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or ENGINEER elects to terminate this Agreement.

7.23. JOINT PREPARATION

Preparation of this Agreement has been a joint effort of CITY and ENGINEER and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

7.24. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.25. APPLICABLE LAW AND VENUE

The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, arbitration or any other legal proceeding shall be Monroe County, Florida.

7.26. INCORPORATION BY REFERENCE

The attached exhibits are incorporated into and made a part of this Agreement:

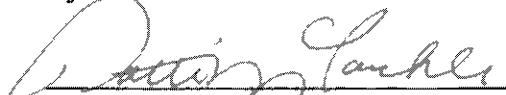
Exhibit A – ENGINEER/Sub-consultants' Hourly Rates

7.27. COUNTERPARTS

This Agreement may be executed in three (3) counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the
respective dates under each signature.

By: CITY OF KEY WEST



Patti McLaughlin, City Manager

By: ENGINEER

DocuSigned by:

Erick Fry
8CD3EDB815EA45B

(Signature)
Erick Fry

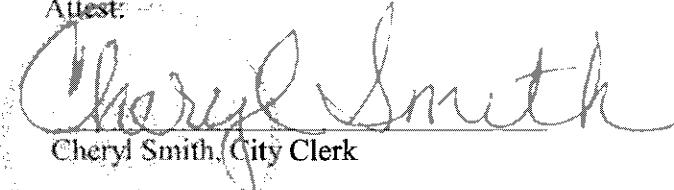
vice President

(Print Name and Title)

5th day of April, 2023

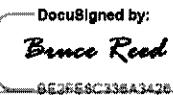
2/23/2023
____ day of _____, 20 _____

Attest:



Cheryl Smith, City Clerk

Attest:

DocuSigned by:

Bruce Reed
8E3F68C336A3426

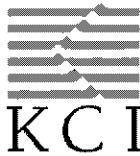
(Signature)
Bruce Reed

Regional Practice Leader

(Print Name and Title)

6 day of April, 2023

2/24/2023
____ day of _____, 20 _____



ISO 9001:2015 CERTIFIED

ENGINEERS • PLANNERS • SCIENTISTS • CONSTRUCTION MANAGERS

1425 W Cypress Creek Road, Suite 101 • Fort Lauderdale, FL 33309 • Phone 954-776-1616

EXHIBIT A HOURLY RATE SCHEDULE

<u>JOB CLASSIFICATION</u>	<u>HOURLY RATE</u>
Project Assistant	\$95.00
Engineer-in-Training	\$130.00
Design Engineer	\$140.00
Senior Design Engineer	\$165.00
Project Engineer	\$185.00
Senior Project Engineer	\$210.00
Landscape Architect-in-Training	\$115.00
Landscape Architect	\$175.00
Project Manager	\$190.00
Senior Project Manager	\$210.00
Practice Leader	\$220.00
Regional Practice Leader	\$245.00
Construction Inspector	\$100.00
Senior Construction Inspector	\$125.00
Senior Project Engineer Construction	\$235.00
Project Administrator	\$190.00
Contract Support Specialist	\$140.00
Senior Inspector Roadway	\$130.00
Senior Inspector Bridge	\$150.00
Inspector Roadway	\$100.00
Survey CAD Technician	\$110.00
Surveyor	\$190.00
Senior Surveyor	\$215.00
Laser Scan/Specialty Survey Crew	\$350.00
Survey Field Crew Supervisor	\$135.00
UAS Operator (Drone Pilot)	\$135.00
Mobile Survey Analyst	\$135.00
2 Person Survey Crew	\$185.00
3 Person Survey Crew	\$260.00

February 2023

Employee-Owned Since 1988

THE CHALLENGE

WWW.KCI.COM

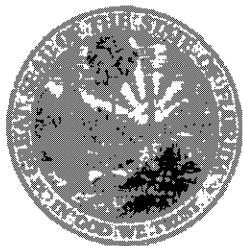


EXHIBIT A

**City of Key West
General Engineering Services Rate Schedule
As of February 2023**

Classification	Hourly Billing Rate*
Senior Principal Engineer/Planner	\$284.84
Principal Engineer/Planner	\$234.02
Associate Engineer/Planner	\$206.36
Senior Engineer/Planner	\$183.35
Engineer/Planner	\$139.49
Transportation Analyst	\$121.39
Technician I	\$96.94
Senior Technician	\$144.31
Associate Technician	\$177.99
Office Support	\$90.81
Data Analyst / Software Technician	\$132.28

**Hourly classification billing rates include actual wage rates, overhead and profit and will be locked for the initial year of the contract. Per the contract, these rates are subject to annual adjustments.*



Ron DeSantis, Governor

Melanie S. Griffin, Secretary



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STATE OF FLORIDA

BOARD OF PROFESSIONAL ENGINEERS

THE PROFESSIONAL ENGINEER HEREIN IS LICENSED UNDER THE
PROVISIONS OF CHAPTER 471, FLORIDA STATUTES

WILSON, CHARLES BRYAN

7226 LAUREL LANE
PARKLAND FL 330670000

LICENSE NUMBER: PE43447

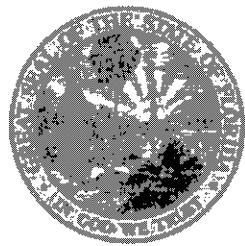
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SCHWARZ, ANDREW JOSEPH

4041 CRESCENT PARK DR
RIVerview FL 33578

LICENSE NUMBER: PE86265

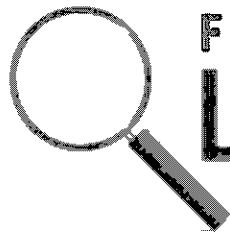
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*AS MAINTAINED BY THE
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BENJAMIN B HOYLE

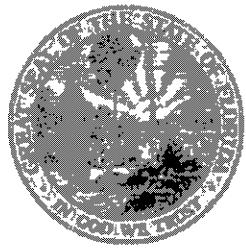
363 SW 33RD AVE, DEERFIELD BEACH, FL 33442-2359

[Complaints 0](#)

[Print](#)

License Type
Surveyor and Mapper
Surveyor and Mapper
Surveyor of Record For

	License#	Issued	Expires	Status
	LS6739	06/16/09	02/28/11	Expired
	LS6769	12/17/09	02/28/25	Active
	LB6901	10/30/98	02/28/23	Active



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KELLEY, BRANDON WADE

4306 SW 282ND STREET
NEWBERRY FL 32669

LICENSE NUMBER: PE88997

EXPIRATION DATE: FEBRUARY 28, 2025

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Julie I. Brown, Secretary



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BOARD OF LANDSCAPE ARCHITECTURE

THE LANDSCAPE ARCHITECT HEREIN HAS REGISTERED UNDER THE
PROVISIONS OF CHAPTER 481, FLORIDA STATUTES

REED, BRUCE K

KCI TECHNOLOGIES INC
1000 SW 14TH DR
BOCA RATON FL 33486

LICENSE NUMBER: LA0001479

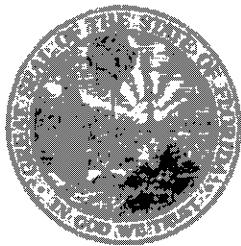
EXPIRATION DATE: NOVEMBER 30, 2023

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ZUCCARO, ROBERT M.

10016 COUNTRY BROOK RD.
BOCA RATON FL 33428

LICENSE NUMBER: PE17931

EXPIRATION DATE: FEBRUARY 28, 2025

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MOHLER, TODD KEENE

4711 NE 13 AVENUE
OAKLAND PARK FL 33334

LICENSE NUMBER: LA0001594

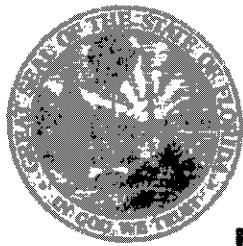
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HOOSAC, KIRK PATRICK

4426 NW 20 AVENUE
OAKLAND PARK FL 33309

LICENSE NUMBER: LA6667091

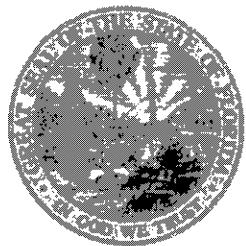
EXPIRATION DATE: NOVEMBER 30, 2023

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LEONE, NICHOLAS JACK

20970 VIA ALAMANDA UNIT 2
BOCA RATON FL 33428

LICENSE NUMBER: PE85655

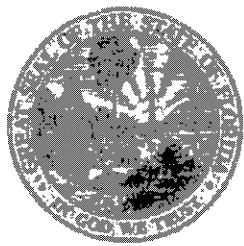
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KLINÉ, STANLEY MARK

1704 NE 15 STREET
FT LAUDERDALE FL 33304

LICENSE NUMBER: PE44016

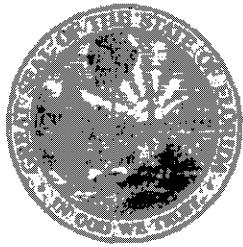
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MIRABELLA, JACOB ALLEN

14201 DAMSELFY DR
TAMPA FL 33625

LICENSE NUMBER: PE84674

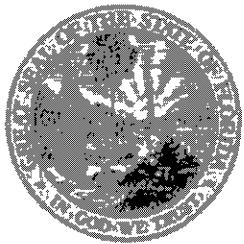
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NEDDEFF, MATTHEW D

912 SE 12TH WAY
DEERFIELD BEACH FL 33441

LICENSE NUMBER: PE71611

EXPIRATION DATE: FEBRUARY 28, 2025

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LICENSEE DETAILS

Licensee Information

Name:

CORSA, ROLANDO (Primary Name)

Main Address:

8112 CHAMPIONS FOREST WAY
TAMPA Florida 33635

County:

HILLSBOROUGH

License Information

License Type:

Professional Engineer

Rank:

Prof Engineer

License Number:

73191

Status:

Current,Active

Licensure Date:

06/09/2011

Expires:

02/28/2025

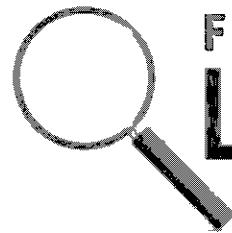
Special Qualifications

Civil

Qualification Effective

02/12/2005

Alternate Names



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*AS MAINTAINED BY THE
DIVISION OF CONSUMER SERVICES

PAUL RICHARD JACKSON

2025 ELK SPRING DR, BRANDON, FL 33511-1726

[Complaints 0](#)

[Print](#)

License Type
Surveyor and Mapper
Surveyor of Record For

License#	Issued	Expires	Status
LS6719	06/12/09	02/28/25	Active
LB6901	10/30/98	02/28/23	Active

CITY OF KEY WEST, FLORIDA

Business Tax Receipt

This Document is a business tax receipt

Holder must meet all City zoning and use provisions.

P.O. Box 1409, Key West, Florida 33040 (305) 809-3955

Business Name KCI TECHNOLOGIES LLC

Location Addr 1425 WEST CYPRESS CREEK RD STE 101

Lic NBR/Class LIC2023-000197 STATE LICENSED PROFESSIONAL

Issued Date 3/14/2023 **Expiration Date: September 30, 2023**

ATTORNEY, PHYSICIAN OR OTHER STATE LICENSED
PROFESSIONAL

Comments: PROFESSIONAL ENGINEER

Restrictions: BTR FEE EXEMPT

KCI TECHNOLOGIES LLC
936 RIDGEBROOK RD

SPARKS, MD 21152

This document must be prominently displayed.

KCI TECHNOLOGIES LLC

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/01/2023

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 any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER		CONTACT NAME: Please See Below:	
USI Insurance Services NW PR 601 Union Street, Suite 1000 Seattle, WA 98101		PHONE (A/C, No, Ext): 206 441-6300	FAX (A/C, No): 610-362-8530
		EMAIL ADDRESS: Seattle.PLCertRequest@usi.com	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: Hanover Insurance Company	22292
INSURED		INSURER B: Hanover American Insurance Company	36064
Kittelson & Associates, Inc. 851 SW 6th Avenue, Suite 600 Portland, OR 97204		INSURER C: XL Specialty Insurance Company	37885
		INSURER D: Allmerica Financial Benefit Ins. Co.	41840
		INSURER E:	
		INSURER F:	

COVERAGEs		CERTIFICATE NUMBER:		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	ADD'L SUBR INSR 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"/> Stop Gap	X	X ZH2D78128004	01/01/2023	01/01/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (EA occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 Stop Gap \$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC					
	OTHER:					
D	AUTOMOBILE LIABILITY	X	X AW2D78128705	01/01/2023	01/01/2024	COMBINED SINGLE LIMIT (EA accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ EACH OCCURRENCE \$ AGGREGATE \$ DED RETENTION \$
	<input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY					
	UMBRELLA LIAB	OCUR				
	EXCESS LIAB	CLAIMS-MADE				
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N	X WM2D78128904	01/01/2023	01/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> N <input type="checkbox"/> N/A				
C	Professional Liability Incl. Pollution		X DPR5006540	01/01/2023	01/01/2024	\$5,000,000 per claim \$5,000,000 annl aggr.

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

**Please Note: The limits shown above may not represent the full limits of coverage carried by the Named Insured, but are shown as evidence that coverage is carried with limits at least as high as is required by

contract.**

(See Attached Descriptions)

CERTIFICATE HOLDER		CANCELLATION	
City of Key West 1300 White Street, Key West, FL 33040		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>Jean A. Ryan</i>	

DESCRIPTIONS (Continued from Page 1)

RE: KAI PN 28559 - City of Key West (RFQ # 22-006).

The General Liability and Automobile Liability policies include an automatic Additional Insured endorsement that provides Additional Insured status to City of Key West, only when there is a written contract that requires such status, and only with regard to work performed by or on behalf of the named insured. The General Liability and Automobile Liability policies contain a special endorsement with "Primary and Noncontributory" wording, when required by written contract. The General Liability, Automobile Liability and Workers Compensation, Professional Liability policies provide a Waiver of Subrogation when required by written contract. The General Liability, Automobile Liability and Workers Compensation, Professional Liability policies include an endorsement providing that 30 days notice of cancellation will be given to the Certificate Holder by the Insurance Carrier.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED BY CONTRACT OR AGREEMENT – WITH PRODUCTS-COMPLETED OPERATIONS COVERAGE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following is added to SECTION II – WHO IS AN INSURED:

Additional Insured – Written Contract, Agreement or Permit

- a. Any person or organization as required by a written contract, agreement or permit to add as an additional insured on your policy is an additional insured but only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by your acts or omissions, or the acts or omissions of those acting on your behalf, and only with respect to:
 - (1) "Your work" for the additional insured(s) designated in the contract, agreement or permit;
 - (2) Premises you own, rent, lease or occupy;
 - (3) Your maintenance, operation or use of equipment leased to you; or
 - (4) "Your work" for the additional insured(s) designated in the contract, agreement or permit including "bodily injury" or "property damage" included in the "products-completed operations hazard" provided that:
 - (a) This Coverage Part provides such coverage; and
 - (b) The written contract, agreement or permit requires such coverage for the additional insured.
- b. If the written contract or agreement specifically requires you to add an additional insured to your policy via endorsement CG 20 10 11 85, CG 20 10 10 93, CG 20 10 03 97, CG 20 10 10 01 or endorsement CG 20 37 10 01, then the words "caused in whole or in part by" in paragraph a. above are replaced by the words "arising out of".
- c. The insurance afforded to such additional insured described above:
 - (1) Only applies to the extent permitted by law.

- (2) Will not be broader than the insurance which you are required by the contract, agreement or permit to provide for such additional insured.
- (3) Is primary to and will not seek contribution from any other insurance available to such additional insured provided that:
 - (a) The additional insured is a Named Insured under such other insurance; and
 - (b) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.
- (4) Will not be broader than coverage provided to any other insured.
- (5) Does not apply if the "bodily injury", "property damage" or "personal and advertising injury" is otherwise excluded from coverage under this Coverage Part, including any endorsements thereto.
- d. This provision does not apply:
 - (1) Unless the written contract or agreement was executed or permit was issued prior to the "bodily injury", "property damage", or "personal and advertising injury".
 - (2) To any person or organization included as an insured by another endorsement issued by us and made part of this Coverage Part.
 - (3) If the "bodily injury", "property damage", or "personal and advertising injury" arises out of sole negligence of the additional insured.
 - (4) To any lessor of equipment:
 - (a) After the equipment lease expires; or
 - (b) If the "bodily injury", "property damage", or "personal and advertising injury" arises out of sole negligence of the lessor

(5) To any:

- (a) Owners or other interests from whom land has been leased if the "occurrence" takes place or the offense is committed after the lease for the land expires; or**
- (b) Managers or lessors of premises if:**
 - (i) The occurrence takes place after you cease to be a tenant in that premises; or**
 - (ii) The "bodily injury", "property damage", "personal and advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor.**

(6) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services.

This exclusion applies even if the claims against any insured allege negligence or

other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" or the offense which caused the "personal and advertising injury" involved the rendering of or failure to render any professional services by or for you.

B. With respect to the insurance afforded to these additional insureds, the following is added to SECTION III – LIMITS OF INSURANCE:

The most we will pay on behalf of the additional insured for a covered claim is the lesser of the amount of insurance:

- 1. Required by the written contract, agreement or permit described in paragraph A.a.; or**
- 2. Available under the applicable Limits of Insurance shown in the Declarations or any endorsement to this policy.**

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL GENERAL LIABILITY BROADENING ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SUMMARY OF COVERAGES

1.	Additional Insured by Contract, Agreement or Permit	Included
2.	Additional Insured – Primary and Non-Contributory	Included
3.	Blanket Waiver of Subrogation	Included
4.	Bodily Injury Redefined	Included
5.	Broad Form Property Damage – Borrowed Equipment, Customers Goods & Use of Elevators	Included
6.	Knowledge of Occurrence	Included
7.	Liberalization Clause	Included
8.	Medical Payments – Extended Reporting Period	Included
9.	Newly Acquired or Formed Organizations - Covered until end of policy period	Included
10.	Non-owned Watercraft	51 ft.
11.	Supplementary Payments Increased Limits	
	- Bail Bonds	\$2,500
	- Loss of Earnings	\$1000
12.	Unintentional Failure to Disclose Hazards	Included
13.	Unintentional Failure to Notify	Included

This endorsement amends coverages provided under the Commercial General Liability Coverage Part through new coverages, higher limits and broader coverage grants.

1. Additional Insured by Contract, Agreement or Permit

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

Additional Insured by Contract, Agreement or Permit

- Any person or organization with whom you agreed in a written contract, written agreement or permit that such person or organization to add an additional insured on your policy is an additional insured only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by your acts or omissions, or the acts or omissions of those acting on your behalf, but only with respect to:

(1) "Your work" for the additional insured(s) designated in the contract, agreement or permit;

(2) Premises you own, rent, lease or occupy; or

(3) Your maintenance, operation or use of equipment leased to you.

b. The insurance afforded to such additional insured described above:

(1) Only applies to the extent permitted by law; and

(2) Will not be broader than the insurance which you are required by the contract, agreement or permit to provide for such additional insured.

- (3) Applies on a primary basis if that is required by the written contract, written agreement or permit.
- (4) Will not be broader than coverage provided to any other insured.
- (5) Does not apply if the "bodily injury", "property damage" or "personal and advertising injury" is otherwise excluded from coverage under this Coverage Part, including any endorsements thereto.
- c. This provision does not apply:
 - (1) Unless the written contract or written agreement was executed or permit was issued prior to the "bodily injury", "property damage", or "personal injury and advertising injury".
 - (2) To any person or organization included as an insured by another endorsement issued by us and made part of this Coverage Part.
 - (3) To any lessor of equipment:
 - (a) After the equipment lease expires; or
 - (b) If the "bodily injury", "property damage", "personal and advertising injury" arises out of sole negligence of the lessor
 - (4) To any:
 - (a) Owners or other interests from whom land has been leased which takes place after the lease for the land expires; or
 - (b) Managers or lessors of premises if:
 - (i) The occurrence takes place after you cease to be a tenant in that premises; or
 - (ii) The "bodily injury", "property damage", "personal injury" or "advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor.
 - (5) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" or the offense which caused the "personal and

"advertising injury" involved the rendering of or failure to render any professional services by or for you.

- d. With respect to the insurance afforded to these additional insureds, the following is added to **SECTION III - LIMITS OF INSURANCE**:

The most we will pay on behalf of the additional insured for a covered claim is the lesser of the amount of insurance:

- 1. Required by the contract, agreement or permit described in Paragraph a.; or
- 2. Available under the applicable Limits of Insurance shown in the Declarations.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

2. Additional Insured - Primary and Non-Contributory

The following is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 4. Other insurance:

Additional Insured - Primary and Non-Contributory

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **SECTION II - WHO IS AN INSURED**, is primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss covered under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the

Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

- (1) For the sole negligence of the Additional Insured;
- (2) When the Additional Insured is an Additional Insured under another primary liability policy; or
- (3) when b. below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

- (1) This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;
 - (c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional with permission of the owner; or
 - (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of **SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**.
- (2) When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.
- (3) 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.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each

insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers

3. Blanket Waiver of Subrogation

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

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damage under this coverage form. The damage must arise out of your activities under a written contract with that person or organization. This waiver applies only to the extent that subrogation is waived under a written contract executed prior to the "occurrence" or offense giving rise to such payments.

4. Bodily Injury Redefined

SECTION V – DEFINITIONS, Definition 3. "bodily injury" is replaced by the following:

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

5. Broad Form Property Damage – Borrowed Equipment, Customers Goods, Use of Elevators

- a. **SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Paragraph 2. **Exclusions** subparagraph j. is amended as follows:

Paragraph (4) does not apply to "property damage" to borrowed equipment while at a jobsite and not being used to perform operations.

Paragraphs (3), (4) and (6) do not apply to "property damage" to "customers goods" while on your premises nor do they apply to the use of elevators at premises you own, rent, lease or occupy.

- b. The following is added to **SECTION V – DEFINITIONS**:

24. "Customers goods" means property of your customer on your premises for the purpose of being:

- a. worked on; or
- b. used in your manufacturing process.
- c. The insurance afforded under this provision is excess over any other valid and collectible property insurance (including deductible) available to the insured whether primary, excess, contingent

6. Knowledge of Occurrence

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

- e. Notice of an "occurrence", offense, claim or "suit" will be considered knowledge of the insured if reported to an individual named insured, partner, executive officer or an "employee" designated by you to give us such a notice.

7. Liberalization Clause

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

Liberalization Clause

If we adopt any revision that would broaden the coverage under this Coverage Form without additional premium, within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this Coverage Part.

8. Medical Payments – Extended Reporting Period

- a. **SECTION I – COVERAGES, COVERAGE C – MEDICAL PAYMENTS**, Paragraph 1. **Insuring Agreement**, subparagraph a.(3)(b) is replaced by the following:
 - (b) The expenses are incurred and reported to us within three years of the date of the accident; and
- b. This coverage does not apply if **COVERAGE C – MEDICAL PAYMENTS** is excluded either by the provisions of the Coverage Part or by endorsement.

9. Newly Acquired Or Formed Organizations

SECTION II – WHO IS AN INSURED, Paragraph 3.a. is replaced by the following:

- a. Coverage under this provision is afforded until the end of the policy period.

10. Non-Owned Watercraft

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Paragraph 2. **Exclusions**, subparagraph g.(2) is replaced by the following:

g. Aircraft, Auto Or Watercraft

- (2) A watercraft you do not own that is:

- (a) Less than 51 feet long; and
- (b) Not being used to carry persons or property for a charge;

This provision applies to any person who, with your consent, either uses or is responsible for the use of a watercraft.

11. Supplementary Payments Increased Limits

SECTION I – SUPPLEMENTARY PAYMENTS COVERAGES A AND B, Paragraphs 1.b. and 1.d. are replaced by the following:

- 1.b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

- 1.d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1000 a day because of time off from work.

12. Unintentional Failure to Disclose Hazards

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

We will not disclaim coverage under this Coverage Part if you fail to disclose all hazards existing as of the inception date of the policy provided such failure is not intentional.

13. Unintentional Failure to Notify

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

Your rights afforded under this policy shall not be prejudiced if you fail to give us notice of an "occurrence", offense, claim or "suit", solely due to your reasonable and documented belief that the "bodily injury" or "property damage" is not covered under this policy.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

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

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

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

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
 - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

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

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

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

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible; or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

- (2) Any loss, cost or expense arising out of any:
 - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

- (5) "Bodily injury" or "property damage" arising out of:

- (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
- (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

h. Mobile Equipment

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

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

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

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;

- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

(4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under the Definitions section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-related

Any loss, cost or expense arising out of any:

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

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

COVERAGE C – MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
 - (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:
 - (a) The accident takes place in the "coverage territory" and during the policy period;
 - (b) The expenses are incurred and reported to us within one year of the date of the accident; and
 - (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
 - (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

- 1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
 - a. All expenses we incur.
 - b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
 - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
 - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
 - e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
 - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:

- (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
- (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II – WHO IS AN INSURED

- 1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
 - (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.
 - (2) "Property damage" to property:
 - (a) Owned, occupied or used by;
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
 - b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C;
 - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage B.

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

- b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c. You and any other involved insured must:

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph c. below.

b. Excess Insurance

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability.
- (b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

(2) When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) 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.

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

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;

- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

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

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
 - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication; provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

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

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

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

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

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

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

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

- a. Means:
 - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
 - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AGGREGATE LIMITS OF INSURANCE PER PROJECT AND PER LOCATION WITH CAP

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Policy Aggregate: \$ 10,000,000
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(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. The following is added to SECTION III – LIMITS OF INSURANCE, paragraph 2.:

The General Aggregate Limit applies separately to:

- a. Construction projects away from premises owned or rented to you; and
- b. Each "location" owned by or rented to you.

If the Schedule above is completed, however, a Policy Aggregate Limit applies. The most we will pay for the sum of all damages, except for damages included in the "products-completed operations hazard", regardless of the number of insureds, claims made or "suits" brought, persons or organizations making claims or bringing "suits",

or "locations", is the Policy Aggregate Limit identified in the Schedule above.

B. This endorsement does not apply to damages included in the "products-completed operations hazard".

C. For the purposes of this endorsement, the following definition is added to SECTION V – DEFINITIONS:

1. "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GOLD PROPERTY BROADENING ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM

CAUSES OF LOSS – SPECIAL FORM

BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM

BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM – ACTUAL LOSS SUSTAINED

The following is added to **C. Limits Of Insurance** of Building and Personal Property Coverage Form CP 00 10:

The limits applicable to the Coverages included in this endorsement may either be in addition to or included within the applicable Limits of Insurance. For application of the limits, refer to each coverage within this endorsement.

Refer to **SECTION V – DEFINITIONS** of this endorsement for additional words or phrases which appear in quotation marks as they have special meanings.

I. COVERAGES**A. Scheduled Coverages**

The coverages in this endorsement amend the coverage provided under the Building and Personal Property Coverage Form, Causes of Loss – Special Form, Business Income (and Extra Expense) Coverage Form and Business Income (and Extra Expense) Coverage - Actual Loss Sustained through new coverages and substitute coverage grants. These coverages are subject to the provisions applicable to this policy, except where amended within this endorsement. If any of the property covered by this endorsement is also covered under any other provisions of the policy of which this endorsement is made a part, or if more than one coverage under this endorsement applies, in the event of loss or damage, you may choose only one of these coverages to apply to that loss. The most we will pay in this case is the limit of insurance applying to the coverage you select. Coverages included in this endorsement apply either separately to each described premises or on an "occurrence" basis. Refer to each coverage within this endorsement for application of coverage.

		Limits of Insurance	Amended Limits of Insurance	Page
1. Additional Covered Property		Included	N/A	3
2. Brands & Labels		Included	N/A	4
3. Broadened Building Coverage		Included	N/A	4
4. Broadened Business Personal Property		Included	N/A	4
5. Building Limit - Inflation Guard		Included	N/A	5
6. Business Income & Extra Expense from Dependent Properties	\$150,000		\$	5
7. Catastrophe Allowance	\$50,000		N/A	5
8. Computer and Funds Transfer Fraud	\$15,000		\$	6
9. Consequential Loss to Stock	Included		N/A	6
10. Contract Penalties	\$50,000		\$	6
11. Debris Removal	\$250,000		\$	6
12. Denial of Access to Premises	Included		N/A	7
13. E-Commerce	\$10,000		\$	7
14. Electronic Data Processing Equipment	Included		N/A	8
15. Employee Theft including ERISA Compliance	\$100,000		\$	8
16. Employee Tools and Work Clothing	\$25,000		\$	10
17. Expediting Expense	\$50,000		\$	11
18. Extended Business Income	180 Days		N/A	11

- (b) Acceptance of fraudulent bills of lading or shipping receipts.
- (2) The most we will pay under this additional coverage is \$50,000 for any one "occurrence" or the Limit of Insurance shown in the Amended Limits Section of this Endorsement.

59. Water Damage, Other Liquids, Powder or Molten Material Damage

F. Additional Coverage Extensions, Paragraph 2. of Causes of Loss – Special Form CP 10 30 is replaced by the following:

2. Water Damage, Other Liquids, Powder or Molten Material Damage

- a. If loss or damage caused by or resulting from covered water damage or other liquid, powder or molten material damage loss occurs, we will also pay the cost to tear out and replace any part of the building or structure, or, in the case of underground pipes, lawns, shrubs or paved areas, to repair damage to the system or appliance from which the water or other substance escapes.
- b. Payment under this Additional Coverage is included within the applicable Limit of Insurance. The maximum we will pay for loss or damage to lawns, shrubs or paved areas is \$50,000 per "occurrence" or the Limit of Insurance shown in the Amended Limits Section of this Endorsement.

THIS IS NOT FLOOD INSURANCE OR PROTECTION FROM AN INUNDATION OF SURFACE WATER, HOWEVER CAUSED.

60. Windblown Debris

The following is added to **A. Coverage, Paragraph 5. Coverage Extensions** of Building and Personal Property Coverage Form CP 00 10:

Windblown Debris

- (1) We will pay your reasonable expenses to remove the windblown debris (including trees) from the described premises, if it is carried to the described premises from the premises of others by wind, during the policy period.

- (2) The most we will pay in any one

"occurrence" in total for the removal of all windblown debris under this Extension is \$10,000 or the Limit of Insurance shown in the Amended Limits Section of this Endorsement.

61. Worldwide Property Off-Premises

The following is added to **A. Coverage, Paragraph 5. Coverage Extensions** of Building and Personal Property Coverage Form CP 00 10:

Worldwide Property Off-Premises

- (1) You may extend the insurance that applies to your Business Personal Property and Personal Property of Others to apply to that property while it is temporarily outside the coverage territory if it is:
 - (a) Temporarily at a location you do not own, lease or operate;
 - (b) Temporarily on display or exhibit at any fair, trade show or exhibition;
 - (c) Samples of your "stock" in trade in the custody of your sales representatives; or
 - (d) While "in transit" between the described premises and a location described in (a), (b) or (c) above.
- (2) The most we will pay for loss or damage under this Extension is \$75,000 or the Limit of Insurance shown in the Amended Limits Section of this Endorsement.
- (3) This Extension provides an additional amount of insurance.

B. Coverages Included within the Blanket Limit of Insurance

1. Accounts Receivable

The following is added to **A. Coverage, Paragraph 4. Additional Coverages** of Building and Personal Property Coverage Form CP 00 10:

Accounts Receivable

- (1) We will pay for loss or damage caused by or resulting from a Covered Cause of Loss to your records of Accounts Receivable.

Accounts Receivable means:

- (a) All amounts due from your customers that you are unable to collect;
- (b) Interest charges on any loan

maintenance of data processing equipment or component parts.

(b) Errors or omissions in processing or copying. But if errors or omissions in processing or copying results in fire or explosion, we will pay for the direct loss or damage caused by the fire or explosion;

(c) Erasure of "research and development documentation"; or

(d) Unauthorized instructions to transfer property to any person or place.

(4) Coverage provided by this Extension does not apply to "research and development documentation" which exist as "electronic data".

(5) We will not pay for loss or damage to "research and development documentation" until you actually replicate such documentation. Repairs or replication must be made as soon as reasonably possible after the loss or damage, but in no event later than two years after the loss or damage unless we grant an extension in writing prior to the expiration of the two-year period.

(6) We will not pay for loss or damage to "research and development documentation" applicable to:

- (a) Products that are obsolete;
- (b) Existing products you have withdrawn from the market; or
- (c) Existing products you have not sold in the last twelve months prior to the loss.

(7) Regardless of the number of insured locations involved, the most we will pay under this Extension for loss or damage in any one "occurrence" at a described premises is subject to the Blanket Coverage Limit of Insurance or the Limit of Insurance shown in the Amended Limits Section of this Endorsement.

9. Valuable Papers and Records (Other Than Electronic Data)

A. Coverage, Paragraph 5. Coverage Extensions, subparagraph c. of Building and Personal Property Coverage Form CP 00 10 is replaced by the following:

c. Valuable Papers and Records (Other Than Electronic Data)

(1) You may extend the insurance that applies to Your Business Personal Property to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control caused by a Covered Cause of Loss. This Extension includes the cost to research, replace or restore the lost information that previously existed on "valuable papers and records" for which duplicates do not exist.

(2) The following Exclusions do not apply to this Coverage Extension:

- (a) Earth Movement; and
- (b) Water.

(3) The most we will pay under this Extension for loss or damage in any one "occurrence" at a described premises is subject to the Blanket Coverage Limit of Insurance or the Limit of Insurance shown in the Amended Limits Section of this Endorsement.

IV. VALUATION

A. E. Loss Conditions, Paragraph 7. Valuation, subparagraph b. of Building and Personal Property Coverage Form CP 00 10 is replaced by the following:

b. If the Limit of Insurance for Building satisfies the Additional Condition, Coinsurance, and the cost to repair or replace the damaged building property is \$2,500 or less, we will pay the cost of building repairs or replacement.

The cost of building repairs or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.

However, the following property will be valued at the actual cash value even when attached to the building:

- (1) Awnings or floor coverings;
- (2) Appliances for refrigerating, ventilating, cooking, dishwashing or laundering;
- (3) Outdoor equipment or furniture; or
- (4) Retaining walls.

B. The following is added to E. Loss Conditions,

m. "Fine Arts"

We will pay the lesser of:

- (1) The market value at the time of loss or damage;
- (2) The reasonable cost of repair or restoration to the condition immediately before the covered loss or damage; or
- (3) The cost of replacement with substantially identical property.
For pairs or sets, we will either:
 - (a) Repair or replace any part to restore the value and condition of the pair or set to that immediately before the covered loss or damage; or
 - (b) Pay the difference between the value of the pair or set before and after the covered loss or damage.

n. Property of Others – our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.

o. We may elect to defend you against suits arising from claims of owners or property. We will do this at our expense.

p. Labor, materials and services that you furnish or arrange on personal property of others are valued based on the actual cost of the labor, materials and services.

q. Finished "stock" you manufactured at the selling price less discounts and expenses you otherwise would have had.

r. "Prototypes"

We will not pay more than the lesser of the following amounts:

- (1) The replacement cost of such property used for the same product, but only if replacement cost is shown as applicable to Personal Property in the Declarations.

However, when replacement with identical property is impossible or unnecessary, the amount of loss will be based on the cost to replace with similar property used to perform the same functions. Property of others will be valued in the same manner, but we

will not pay more than the amount for which you are legally liable; or

- (2) The amount you actually spend to repair or replace lost or damaged "prototypes" used for the same purpose.

s. "Research and development documentation":

We will not pay more than the least of the following amounts:

- (1) Your cost actually spent to reproduce lost or damaged "research and development documentation" from back-up files or original source documents;
- (2) The reasonable cost necessary to research, repair, restore, recreate, reconstitute, reproduce or replace "research and development documentation", used for the same product, to their condition immediately before the loss or damage;
- (3) If identical "research and development documentation" cannot be purchased, the cost to purchase such documentation of comparable kind, functionality and quality; or
- (4) The amount you actually spend to research, repair, restore, recreate, reconstitute, reproduce or replace "research and development documentation", used for the same product.

But we will not pay more than the cost to restore "research and development documentation" to its condition immediately prior to the loss.

V. DEFINITIONS

The following is added to Paragraph H. of Building and Personal Property Coverage Form CP 00 10:

H. Definitions

1. "Antiques" means an object having value because its:
 - a. Craftsmanship is in the style or fashion of former times; and
 - b. Age is 100 years or older.
2. "Banking premises" means the interior of that portion of any building occupied by a banking institution or similar safe depository.
3. "Communicable disease" means a bacterial micro-organism transmitted through human contact with food.

premises, including:

- (1) Payroll; and
- (2) The amount of charges which are the legal obligation of the tenant(s) but would otherwise be your obligations.

41. "Research and development documentation" means written evidence of facts, information, processes, concepts or formulas that are directly related to the development of new products or enhancement of existing products. Written evidence includes written papers, plans, manuscripts, written or inscribed documents or plans.

"Research and development documentation" does not include "valuable papers and records", accounts receivable or "media", "software" or "data".

42. "Research and development operations" means your business activities that are directly related to the development of new products or the enhancement of existing products.

43. "Scientific and professional equipment" means medical, engineering, veterinary, measurement, recording, analyzing or similar equipment.

44. "Securities" means negotiable and nonnegotiable instruments or contracts representing either "money" or property and includes:

- a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
- b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you.

but does not include "money".

45. "Soft cost expenses" means additional:

- a. Realty taxes and other assessments that you incur for the period of time that construction has been extended beyond the projected completion date;
- b. Interest on money borrowed to finance construction, remodeling, renovation or repair; and
- c. Advertising, public relations and promotional expenses.

46. "Software" means:

- a. "Media";
- b. "Electronic data";
- c. "Programs and applications"; and
- d. "Proprietary programs".

47. "Spoilage" means any detrimental change in physical state of "perishable goods". Detrimental change includes, but is not limited to, thawing of frozen goods, warming of refrigerated goods, solidification of liquid or molten material, chemical reactions to material in process, and reduction in value of time sensitive materials.

48. "Theft" means the unlawful taking of property to the deprivation of the insured.

49. "Transfer account" means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of "money" and "securities":

- a. By means of electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or
- b. By means of written instructions establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic funds transfer system.

50. "Valuable papers and records" means:

- a. Inscribed, printed or written:

- (1) Documents;
- (2) Manuscripts; and
- (3) Records

including abstracts, books, deeds, drawings, films, maps or mortgages; and

- b. Similar items stored electronically.

But, "valuable papers and records" does not mean "money" or "securities".

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NOTICE OF CANCELLATION to designated ENTITY(S)
(Including Nonpayment of Premium)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
HANOVER COMMERCIAL FOLLOW FORM EXCESS AND UMBRELLA POLICY
COMMERCIAL PROPERTY COVERAGE PART
BUSINESS AUTO COVERAGE FORM
BUSINESS OWNERS COVERAGE FORM

SCHEDULE

Name of Designated Entity	Mailing Address or Email Address	Number Days Notice
Any Person or Organization to Whom you have agreed in a written contract (See form 221-0163)	The Address for that person or organization included in such written request from you to us.	30

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

If we cancel this policy for any reason, including nonpayment of premium, we will give written notice of such cancellation to the Designated Entity(s) shown in the Schedule. Such notice may be delivered or sent by any means of our choosing. The notice to the Designated Entity(s) will state the effective date of cancellation.

Unless otherwise noted in the Schedule above, such notice will be provided to the Designated Entity(s) no

more than the number of days in advance of the effective date of cancellation that we are required to provide to the Named Insured for such cancellation. If the reason for cancellation is nonpayment of premium, however, we will provide ten days notice.

Such notice of cancellation is solely for the purpose of informing the Designated Entity(s) of the effective date of cancellation and does not grant, alter, or extend any rights or obligations under this policy.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ THIS CAREFULLY.

It is agreed that the following complete wording for from 401-1236:

Any person or Organization to Whom you have agreed in a written contract that notice of cancellation or non-renewal of this policy will be given, but only if:

1. You send us a written request to provide such notice, including the Name and Address of such person or organization, after the First Named Insured receives notice from us of Cancellation or Non-Renewal of this policy; and
2. We receive such written request at least 14 days before the beginning of the applicable number of days shown in this schedule.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the policy other than as above stated.

(Completion of the following, including countersignature, is required to make this endorsement effective only when it is issued subsequent to preparation of the Policy.)

Issued to Kittelson & Associates Inc.

Countersigned by

Authorized Representative of the Company



AGREEMENT

between

CITY OF KEY WEST

and

KCI Technologies, Inc.

for

GENERAL ENGINEERING SERVICES

KEY WEST, FLORIDA

This is an Agreement between: CITY OF KEY WEST, its successors and assigns, hereinafter referred to as "CITY," and KCI Technologies, Inc., a corporation organized under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "ENGINEER".

W I T N E S S E T H, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and ENGINEER agree as follows:

ARTICLE 1

DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

- 1.1. Agreement:** This document, Articles 1 through 7, inclusive. Other terms and conditions are included in the CITY's RFQ 23-006, ENGINEER's Response to RFQ dated December 7th, 2022 exhibits, Task Orders, and supplemental documents that are by this provision expressly incorporated herein by reference.
- 1.2. Commissioners:** Members of the City Commission with all legislative powers of the CITY vested therein.
- 1.3. ENGINEER:** The firm selected to perform the services pursuant to this Agreement.
- 1.4. Contract Administrator:** The ranking managerial employee of the CITY or some other employee expressly designated as Contract Administrator by the City Manager, who is the representative of the CITY. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.5. Contractor:** The person, firm, corporation or other entity that enters into an agreement with CITY to perform the construction work for the Task Order.
- 1.6. CITY:** City of Key West.
- 1.7. Task Order:** A detailed description of a particular service or services to be performed by ENGINEER under this Agreement.

ARTICLE 2

PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and generally to express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1.** The ENGINEER is not entitled to receive, and the CITY is not obligated to pay, any fees or expenses in excess of the amount budgeted for Task Orders authorized under this Agreement in each fiscal year (October 1-September 30) by CITY. The budgeted amount may only be modified per City Ordinance(s).
- 2.2.** The CITY has met the requirements of the Engineers' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected ENGINEER to perform the services hereunder based on the Request for Qualifications 23-006 incorporated by reference and made a part hereof and the Response to the Request for Qualifications from Engineer dated December 7th, 2022 incorporated by reference and made part of.
- 2.3.** Negotiations pertaining to the services to be performed by ENGINEER were undertaken between ENGINEER and staff selected by the Commission, and this Agreement incorporates the results of such negotiations.

ARTICLE 3

SCOPE OF SERVICES AND STANDARD OF CARE

3.1. ENGINEER's services may include but are not limited to the following in regard to the Agreement:

- 3.1.1. Civil Engineering Services
- 3.1.2. Utility Engineering Services
- 3.1.3. Solid Waste Engineering Services
- 3.1.4. Coastal Engineering Services
- 3.1.5. Structural Engineering Services

3.2. ENGINEER's services shall include comprehensive full-scale engineering, design, surveying, permit preparation, preparing contract specifications, preparing bid and proposal documents and assisting the City with technical review and ranking of the same to attain qualified contractors for work, environmental assessments, construction administration and owner project representation services relating to operation, new construction, permit modification, construction improvements, rehabilitation and or retrofits, and any other lawful professional Engineering services that the ENGINEER is qualified to provide, and that the CITY authorizes the ENGINEER to undertake in connection with this Agreement. ENGINEER shall provide all necessary, incidental and related activities and services as required.

3.3. ENGINEER and CITY acknowledge that the Scope of Services does not delineate every detail and minor work task required to be performed by ENGINEER to complete any particular task order. If, during the course of the performance of the services included in this Agreement, ENGINEER determines that work should be performed to complete the Task Order which is, in the ENGINEER's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, ENGINEER shall notify Contract Administrator in writing in a timely manner before proceeding with the work. If ENGINEER proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work. Performance of work by ENGINEER outside the originally anticipated level of effort without prior written CITY approval or modification of Task Order is at ENGINEER's sole risk.

3.4. The specific services to be provided by the ENGINEER and the compensation for such services shall be as mutually agreed to in separate Task Orders to this AGREEMENT. Each Task Order when fully executed shall become a supplement to and a part of this AGREEMENT.

3.4.1. Each Task Order shall be supported by appropriate cost and pricing data and such other documentation as required by the CITY.

3.4.2. Task Orders shall be numbered consecutively as specified by CITY. Each Task Order shall include a description of the scope of services and specified deliverables, time of completion, total estimated costs of services, and method of compensation. Additional information shall be provided to the CITY if required. Amended Task Orders shall include substantially the same information and be submitted to the CITY for approval.

3.4.3. The CITY may make or approve changes within the general Scope of Services in any Task Order. If such changes affect the ENGINEER's cost of or time required for performance of

the services, an equitable adjustment shall be made through an amendment to the Task Order.

3.4.4. A Task Order may be terminated at any time, with or without cause, by the CITY upon written notice to ENGINEER. ENGINEER shall perform no further work upon receipt of this notice unless specifically authorized by the City Manager of the City of Key West. On termination, the ENGINEER shall be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the Task Order. The CITY shall not pay for anticipatory profits. The termination of this Agreement pursuant to Paragraph 7.2, hereof, shall constitute the termination of any and all outstanding Task Orders.

3.4.5. The ENGINEER shall begin services under any Task Order when authorized by a Purchase Order issued by the CITY and delivered to ENGINEER.

3.5. The CITY and ENGINEER may negotiate additional scopes of services, compensation, time of performance and other related matters for each Task Order as allowed by this Agreement. If CITY and ENGINEER cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services from another source.

3.6. ENGINEER shall perform the professional services under this Agreement at the level customary for competent and prudent professionals in ENGINEER'S field performing such services at the time and place where the services are provided. In the event ENGINEER does not comply with this standard, and omissions or errors are made by ENGINEER, ENGINEER will correct such work that contains errors or omissions and reimburse CITY through compensation for damages.

3.7. ENGINEER is required to perform the Task Orders consistent with current applicable Federal, State and City laws, codes and regulations that pertain to the Task Order. In all Task Orders, where changes to any laws, codes or regulations affecting the Task Order have a Task Order effective date or are anticipated to be effective at a future date, or if knowledge of anticipated changes is available to ENGINEER or any sub-consultant, ENGINEER shall present options for their use or implementation.

3.8. Construction Responsibility - Notwithstanding anything in this Agreement, ENGINEER shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures, precautions and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by CITY's construction contractors.

3.9. Estimates - Since ENGINEER has no control over local conditions, the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, ENGINEER does not guarantee the accuracy of any opinions of probable construction cost as compared to construction contractor's bids or the actual cost to the CITY.

TERM OF AGREEMENT; TIME FOR PERFORMANCE; CONTRACTOR DAMAGES:

The term of this Agreement shall be for a period of three (3) years from the effective date of the Agreement with the option of a two (2) year renewal. The Agreement will be in effect upon execution by both parties. The Agreement may be renewed at the discretion of the CITY.

- 4.1.** ENGINEER shall perform the services described in each Task Order within the time periods specified. Each such time period shall commence from the date of the purchase order issued for such services.
- 4.2.** ENGINEER must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent Task Order. Prior to granting approval for ENGINEER to proceed to a subsequent Task Order, the Contract Administrator may, at his or her sole option, require ENGINEER to submit any deliverables/documents for the Contract Administrator's review.
- 4.3.** In the event ENGINEER is unable to complete the above services because of delays resulting from untimely review by CITY or other governmental authorities having jurisdiction over the Task Order, and such delays are not the fault of ENGINEER, or because of delays which were caused by factors outside the control of ENGINEER, CITY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of ENGINEER to notify CITY within 10 days in writing whenever a delay in approval by a governmental agency, including CITY, is anticipated or experienced, and to inform the Contract Administrator of all facts and details related to the delay.
- 4.4.** In the event the Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY or if Contractor is granted an extension of time beyond said substantial completion date, and ENGINEER's services are extended beyond the substantial completion date, through no fault of ENGINEER, ENGINEER shall be compensated in accordance with Article 5 for all services rendered by ENGINEER beyond the substantial completion date.
- 4.5.** In the event Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY, and the failure to substantially complete is caused in whole or in part by a negligent act, error or omission of ENGINEER, then ENGINEER shall pay to CITY its proportional share of any claim or damages to Contractor or CITY arising out of the delay. This provision shall not affect the rights and obligations of either party as set forth in Paragraph 7.8, INDEMNIFICATION OF CITY.

COMPENSATION AND METHOD OF PAYMENT

5.1. AMOUNT AND METHOD OF COMPENSATION

The types of compensation methods, which shall be used to pay for the ENGINEER's services, are limited to the following:

5.1.1. Lump sum payment/Not-to-Exceed, which includes compensation for all the ENGINEER'S salaries, general overhead costs, direct expenses, and profit.

5.1.1.1. If Work timing deviates from the assumed schedule for causes beyond ENGINEER's control, ENGINEER and/or the CITY reserves the right to request renegotiation of those portions of the lump sum affected by the time change. During construction contract administration, if tasked, it is agreed by both parties that whether construction is completed earlier or later, that a proportional part of the compensation will be adjusted and either given to ENGINEER for additional work or deleted from the amount owed ENGINEER for less time required.

5.1.1.2. In the event of a change of scope, CITY shall authorize in writing an appropriate decrease or increase in compensation.

5.1.1.3. Monthly invoicing will be based on an estimate of the percent of work completed at the end of the preceding month.

5.1.1.4. The ENGINEER shall submit wage rates and other actual unit costs supporting the compensation. The ENGINEER shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.

5.1.2. Cost Reimbursable-Per Diem (Time and Expenses)

5.1.2.1. Per diem rates are those hourly or daily rates charged for work performed on the WORK by ENGINEER's employees of the indicated classifications and include all salaries, overheads, and profit, but do not include allowances for Direct Expenses. These rates are subject to annual adjustments based on the Consumer Price Index Urban U.S. City Average All Items U.S. Department of Labor Bureau of Labor Statistics.

5.1.2.2. Hourly rates for the contract (ENGINEER AND Sub-consultants): See attached Exhibit A.

5.1.2.3. ENGINEER and Sub-consultants allowed annual wage adjustment on the Agreement effective anniversary dates shall not exceed the Data Resource Institute (DRI) forecast of wage and price escalation (the U.S. Bureau of Labor Statistics [BLS] Employment Cost Index [ECI] for Private Industry)

5.1.2.4. A budgetary amount will be established for each Task Order. This budgetary amount shall not be exceeded unless written approval is provided by the CITY. ENGINEER shall make reasonable efforts to complete the work within the budget and will keep CITY informed of progress toward that end so that the budget or work effort can be adjusted if found necessary.

5.1.2.5. ENGINEER is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CITY obligated to pay ENGINEER beyond these limit

5.1.2.6. When any budget has been increased, ENGINEER's excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increased.

5.2. REIMBURSABLE EXPENSES

5.2.1.1. Direct non-salary expenses, entitled Reimbursable Expenses, directly attributable to the Work shall be charged at actual cost, and shall be limited to the following:

5.2.1.2. Identifiable transportation expenses in connection with the Work, subject to the limitations of Section 112.061, Florida Statutes. There shall be no mileage reimbursement for travel within the City of Key West. Transportation expenses to locations outside the City area or from locations outside the City will not be reimbursed unless specifically pre-authorized in writing by the Contract Administrator.

5.2.1.3. Identifiable per diem, meals and lodgings, taxi fares, automobile rental, and miscellaneous travel-connected expenses for ENGINEER's personnel subject to the limitations of Section 112.061 Florida Statutes. Meals for class C travel inside the City of Key West will not be reimbursed. Lodging will be reimbursed only for room rates equivalent to Hampton Inn or Best Western located within the City of Key West city limits.

5.2.1.4. Identifiable communication expenses approved by Contract Administrator, long distance telephone, courier and express mail utilized to render the services required by this Agreement.

5.2.1.5. Cost of printing, reproduction or photography that is required by or of ENGINEER to deliver services set forth in this Agreement.

5.2.1.6. Identifiable testing costs approved by Contract Administrator.

5.2.1.7. All permit fees paid to regulatory agencies for approvals directly attributable to the Work. These permit fees do not include those permits required for the Contractor.

5.2.2. It is acknowledged and agreed to by ENGINEER that the dollar limitation set forth in paragraphs 5.2.1.1 through 5.2.1.7 is a limitation upon, and describes the maximum extent of, CITY's obligation to reimburse ENGINEER for direct, non-salary expenses. If CITY or Contract Administrator requests ENGINEER to incur expenses not contemplated in the amount for Reimbursable Expenses, ENGINEER shall notify Contract Administrator

in writing before incurring such expenses. Any such expenses shall be reviewed and approved by CITY prior to incurring such expenses.

5.2.3. All sub-consultants' hourly rates shall be billed in the actual amount paid by ENGINEER. Sub- consultant Reimbursable Expenses are limited to the items in Paragraphs 5.2.1.1 through 5.2.1.7 described above when the sub-consultant's agreement provides for reimbursable expenses.

5.3. METHOD OF BILLING

5.3.1. Lump Sum Compensation

ENGINEER shall submit billings identifying type of work completed on a monthly basis in a timely manner. These billings shall identify the nature of the work performed and the estimated percent of work accomplished. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, ENGINEER shall provide backup for past and current invoices that record hours, personnel, and expense costs on a task basis, so that total hours and costs by task may be determined.

5.3.2. Cost Reimbursable-Per Diem (Time and Expenses) Compensation

ENGINEER shall submit billings identifying the type of work completed on a monthly basis in a timely manner for all personnel hours and reimbursable expenses attributable to the Work. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category and name of the individuals performing same. Billings shall itemize and summarize reimbursable expenses by category and identify same as to the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for reimbursable expenses, a copy of the approval shall accompany the billing for such reimbursable. The statement shall show a summary of salary costs and reimbursable expenses with accrual of the total and credits for portions paid previously. External reimbursable expenses and sub-consultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain the purchase order number or other identifier that clearly indicates the expense is identifiable to the Work. Subsequent addition of the identifier to the invoice or receipt by the ENGINEER is not acceptable except for meals and travel expenses. Appropriate ENGINEER's cost accounting forms with a summary of charges must document internal expenses by category. When requested, ENGINEER shall provide backup for past and current invoices that records hours and rates by employee category, reimbursable expenses by category, and subcontractor fees on a task basis, so that total hours and costs by task may be determined.

5.3.3. If requested, ENGINEER shall provide copies of past paid invoices to any subcontractor or sub-consultant prior to receiving payment. CITY reserves the right to pay any subcontractor or sub- consultant, if ENGINEER has not paid them timely and the services of the subcontractor or sub- consultant are necessary to complete the Work.

5.4. METHOD OF PAYMENT

5.4.3. CITY shall pay ENGINEER within forty-five (45) calendar days from receipt of ENGINEER's proper invoice with documentation as provided above.

5.4.3. In the event ENGINEER has utilized a Sub-consultant to perform the Work, ENGINEER will be required to provide documentation that Sub-consultant and Sub-consultants of Sub-consultants have been paid prior to payment being made to ENGINEER.

5.4.3. Payment will be made to ENGINEER

at:

Address: P. O. Box 791479
Baltimore, Maryland 21279

ARTICLE 6

CITY 'S RESPONSIBILITIES

- 6.1.** CITY shall assist ENGINEER by placing at ENGINEER's disposal all information CITY has available pertinent to the Task Order including previous reports and any other data relative to design or construction of the Task Order.
- 6.2.** CITY shall arrange for access to, and make all provisions for, ENGINEER to enter upon public and private property as required for ENGINEER to perform its services.
- 6.3.** CITY shall review the ENGINEER's itemized deliverables/documents identified in the Task Orders and respond in writing with any comment within the time set forth in the Task Order or within a reasonable time.
- 6.4.** CITY shall give prompt written notice to ENGINEER whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services or any defect in the work of any Contract.

ARTICLE 7

MISCELLANEOUS

7.1. OWNERSHIP OF DOCUMENTS

All finished or unfinished documents, data, data matrices and calculations generated and used to evaluate and compute the construction or material requirements for the Task Order, studies, surveys, drawings, maps, models, photographs and reports prepared or provided by ENGINEER in connection with this Agreement, whether in hard copy or electronic form, shall become the property of CITY, whether the Task Order for which they are made is completed or not. If applicable, CITY may withhold any payments then due to ENGINEER until ENGINEER complies with the provisions of this Article. ENGINEER is not responsible for damages caused by the unauthorized re- use by others of any of the materials for another Task Order.

7.2. TERMINATION

- 7.2.1. This Agreement may be terminated with or without cause by CITY at any time.
- 7.2.2. Notice of termination shall be provided in accordance with paragraph 7.12 NOTICES of this Agreement.
- 7.2.3. In the event this Agreement is terminated, ENGINEER shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 7.1 of this Agreement are provided to the CITY. Upon being notified of CITY's election to terminate, ENGINEER shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall CITY make payment of profit for services that have not been performed.

7.3. AUDIT RIGHT AND RETENTION OF RECORDS

- 7.3.1. CITY shall have the right to audit the books, records, and accounts of ENGINEER that are related to any Task Order. ENGINEER shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Task Order.

7.3.2. ENGINEER shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to ENGINEER's records, ENGINEER shall comply with all requirements thereof; however, ENGINEER shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

7.4. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AMERICANS WITH DISABILITIES ACT, AND EQUAL BENEFITS FOR DOMESTIC PARTNERS

7.4.1. ENGINEER shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.

7.4.2. ENGINEER's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, gender identity or expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor that cannot be lawfully or appropriately used as a basis for service delivery. ENGINEER shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, gender identity or expression, marital status, political affiliation, or physical or mental disability. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeships), and accessibility.

7.4.3. Engineer shall comply with City Ordinance Sec. 2-799 Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

7.5. PUBLIC ENTITY CRIMES ACT

7.5.1. ENGINEER represents that the execution of this Agreement shall not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, engineer or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or engineer under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in being barred from CITY's competitive procurement activities.

7.5.2. In addition to the foregoing, ENGINEER further represents that there has been no determination, based on an audit, that it or any sub-consultant, has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether ENGINEER has been placed on the convicted vendor list.

7.5.3. ENGINEER shall promptly notify CITY if it or any subcontractor or sub-consultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

7.6. SUB-CONSULTANTS

ENGINEER may use the sub-consultants identified in the proposal that was a material part of the selection of ENGINEER to provide the services under this Agreement. The CITY reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultants in order to make determination as to the capability of the sub-consultant to perform properly under this Contract. The CITY's acceptance of a sub-consultant shall not be unreasonably withheld. ENGINEER shall obtain written approval of Contract Administrator prior to changing or adding to the list of sub-consultants. The list of sub-consultants submitted and currently approved is as follows:

a. Kittelson & Associates, Inc.
b. _____

- c. _____
- d. _____

Hourly rates for such said Sub-consultants are as on attached Exhibit A.

7.7. ASSIGNMENT AND PERFORMANCE

- 7.7.1. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and ENGINEER shall not subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 7.6.
- 7.7.2. ENGINEER represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to CITY's satisfaction for the agreed compensation.
- 7.7.3. ENGINEER shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of ENGINEER's performance and all interim and final product(s) provided to or on behalf of CITY shall be in accordance with the standard of care set forth in Paragraph 3.6.
- 7.7.4. ENGINEER shall not change or replace overall project manager identified in the ENGINEER's response to the RFQ without the Contract Administrator's prior written approval.

7.8. INDEMNIFICATION OF CITY

- 7.8.1. To the fullest extent permitted by law, the ENGINEER expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnities") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the ENGINEER, its Subcontractors or persons employed or utilized by them in the performance of the Contract. Claims by indemnities for indemnification shall be limited to the amount of ENGINEER's insurance or \$1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.
- 7.8.2. The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the ENGINEER under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the ENGINEER or of any

third party to whom ENGINEER may subcontract a part or all of the Work. This indemnification shall continue beyond the date of completion of the Work.

7.9. INSURANCE

7.9.1. ENGINEER is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for workers' compensation, public liability, and property damage liability insurance, and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts to prevail if greater than minimum amounts indicated. Notwithstanding any other provision of the Contract, the ENGINEER shall provide the minimum limits of liability insurance coverage as follows:

Auto Liability	\$1,000,000	Combined Single Limit
General Liability	\$2,000,000	Aggregate (Per Project)
	\$2,000,000	Products Aggregate
	\$1,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$ 300,000	Fire Damage/Legal
Professional Liability	\$2,000,000	Per Claim / Aggregate

7.9.2. ENGINEER shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as an additional insured on all policies—excepting Professional Liability—on a PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its equivalent, (combination of CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations, is acceptable) including a waiver of subrogation clause in favor of City of Key West on all policies. ENGINEER will maintain the Professional Liability, General Liability, and Umbrella Liability insurance coverages summarized above with coverage continuing in full force including the additional insured endorsement until at least 3 years beyond completion and delivery of the work contracted herein.

7.9.3. Notwithstanding any other provision of the Contract, the ENGINEER shall maintain complete worker's compensation coverage for each and every employee, principal, officer, representative, or agent of the ENGINEER who is performing any labor, services, or material under the Contract. Further, ENGINEER shall additionally maintain the following minimum limits of coverage:

Bodily Injury Each Accident	\$1,000,000
Bodily Injury by Disease Each Employee	\$1,000,000
Bodily Injury by Disease Policy Limit	\$1,000,000

7.9.4. If the work is being done on or near a navigable waterway, ENGINEER's workers

compensation policy shall be endorsed to provide USL&H Act (WC 00 01 06 A) and Jones Act (WC 00 02 01 A) coverage if specified by the City of Key West. ENGINEER shall provide the City of Key West with a Certificate of Insurance verifying compliance with the workers' compensation coverage as set forth herein and shall provide as often as required by the City of Key West such certification which shall also show the insurance company, policy number, effective and expiration date, and the limits of worker's compensation coverage under each policy.

7.9.5. ENGINEER's insurance policies shall be endorsed to give 30 days written notice to the City of Key West in the event of cancellation or material change, using form CG 02 24, or its equivalent.

7.9.6. Certificates of Insurance submitted to the City of Key West will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.

7.9.7. ENGINEER will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. ENGINEER will notify City of Key West immediately by telephone at (305) 809-3964 any accident or injury to anyone that occurs on the jobsite and is related to any of the work being performed by the ENGINEER.

7.9.8. It shall be the responsibility of the Engineer to ensure that all sub-consultants/subcontractors comply with the same insurance requirements as is required of Engineer.

7.9.9. In addition, it is understood if at any time any of the policies required by the City shall become unsatisfactory to the City as to form or substance, or if a company issuing any such policy shall become unsatisfactory to the City, the Engineer shall obtain a new policy, submit the same to the City for approval and submit a certificate of insurance as which may be required by the contract. It is understood that upon failure of the Engineer to furnish, deliver and maintain such insurance as required above, the contract at the election of the City may be declared suspended, discontinued or terminated. Further, failure of the Engineer to take out and/or maintain any required insurance shall not relieve the Engineer from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the Engineer concerning indemnification.

7.10. REPRESENTATIVE OF CITY AND ENGINEER

7.10.1. The parties recognize that questions in the day-to-day conduct of the Task Order will arise. The Contract Administrator, upon ENGINEER's request, shall advise ENGINEER in writing of one (1) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Task Order shall be addressed.

7.10.2. ENGINEER shall inform the Contract Administrator in writing of

ENGINEER's representative to whom matters involving the conduct of the Task Order shall be addressed.

7.11. ALL PRIOR AGREEMENTS SUPERSEDED

- 7.11.1. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document and the exhibits attached. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.
- 7.11.2. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

7.12. NOTICES

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR CITY OF KEY WEST:

City of Key West
1300 White Street
Key West, FL 33040

FOR ENGINEER:

Contact Name: C. Bryan Wilson, PE
Address: KCI Technologies, Inc.
1425 West Cypress Creek Rd., Suite 101
Fort Lauderdale, Florida 33309

7.13. TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by ENGINEER shall act as the execution of a truth-in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of

contracting. The original contract price for any Task Order and any additions thereto shall be adjusted to exclude any significant sums, by which CITY determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

7.14. INTERPRETATION

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence or paragraph where they appear, unless the context otherwise requires. Whenever reference is made to a Paragraph or Article of this Agreement, such reference is to the Paragraph or Article as a whole, including all of the subsections of such Paragraph, unless the reference is made to a particular subsection or subparagraph of such Paragraph or Article.

7.15. ENGINEER'S STAFF

- 7.15.1. ENGINEER shall provide the key staff identified in their proposal for Task Order as long as such key staffs are in ENGINEER's employment.
- 7.15.2. ENGINEER shall obtain prior written approval of Contract Administrator to change key staff. ENGINEER shall provide Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator shall be reasonable in evaluating key staff qualifications.
- 7.15.3. If Contract Administrator desires to request removal of any of ENGINEER's staff, Contract Administrator shall first meet with ENGINEER and provide reasonable justification for said removal.
- 7.15.4. The CITY reserves the right to approve the members of the Consulting Team and the roles they will undertake in the assignment. The CITY's acceptance of a team member shall not be unreasonably withheld.
- 7.15.5. Each assignment issued under this Agreement by the CITY to the Engineer, the Engineer will at the CITY's request, disclose the role, qualifications and hourly rate of each individual working on the assignment.
- 7.15.6. The CITY reserves the right to require replacement of any of the members of the Consulting Team. Any proposed addition or change of members of the Consulting Team initiated by the Engineer must obtain the CITY Representative's prior written approval.

- 7.15.7. In the event of the death, incapacity or termination of employment of any member of the Consulting Team before Completion of the Services, the Engineer shall at its own expense and as soon as reasonably practicable arrange to substitute or replace the individual member concerned.
- 7.15.8. The Engineer shall ensure that the substitute or replacement is no less qualified in terms of relevant experience and qualifications than the outgoing individual and is available at the relevant time to act as such replacement or substitute. The Engineer shall without delay forward curriculum vitae of the proposed substitute or replacement to the CITY. The deployment of such substitute or replacement shall be subject to the CITY's consent.
- 7.15.9. The Engineer shall solely be responsible for all direct, indirect and consequential costs or losses that may arise from the substitution or replacement of members of the Consulting Team.

7.16. INDEPENDENT CONTRACTOR

ENGINEER is an independent contractor under this Agreement. Services provided by ENGINEER shall be subject to the supervision of ENGINEER. In providing the services, ENGINEER or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY, nor shall they accrue any of the rights or benefits of a CITY employee. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.17. THIRD PARTY BENEFICIARIES

Neither ENGINEER nor CITY intend directly or substantially to benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. No subcontractor or sub-consultant, whether named or unnamed, shall be a third party beneficiary of this Agreement.

7.18. CONFLICTS

- 7.18.1. Neither ENGINEER nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with ENGINEER's loyal and conscientious exercise of judgment related to its performance under this Agreement.
- 7.18.2. ENGINEER agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal

proceeding.

7.18.3. In the event ENGINEER is permitted to use sub-consultants to perform any services required by this Agreement, ENGINEER agrees to prohibit such sub-consultants from having any conflicts as within the meaning of this section, and shall so notify them in writing.

7.19. CONTINGENCY FEE

ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for ENGINEER, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for ENGINEER, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

7.20. WAIVER OF BREACH AND MATERIALITY

7.20.1. Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.20.2. CITY and ENGINEER agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

7.21. COMPLIANCE WITH LAWS

ENGINEER shall comply with federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement applicable at the time the scope of services was drafted for this agreement. In addition, at the time each Task Order is executed, any revisions to applicable federal state, and local laws, codes, ordinances, rules and regulations shall apply.

7.22. SEVERABILITY

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or ENGINEER elects to terminate this Agreement.

7.23. JOINT PREPARATION

Preparation of this Agreement has been a joint effort of CITY and ENGINEER and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

7.24. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.25. APPLICABLE LAW AND VENUE

The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, arbitration or any other legal proceeding shall be Monroe County, Florida.

7.26. INCORPORATION BY REFERENCE

The attached exhibits are incorporated into and made a part of this Agreement:

Exhibit A – ENGINEER/Sub-consultants' Hourly Rates

7.27. COUNTERPARTS

This Agreement may be executed in three (3) counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the
respective dates under each signature.

By: CITY OF KEY WEST



Patti McLaughlin, City Manager

By: ENGINEER

DocuSigned by:

Erick Fry
8CD3EDB815EA45B

(Signature)
Erick Fry

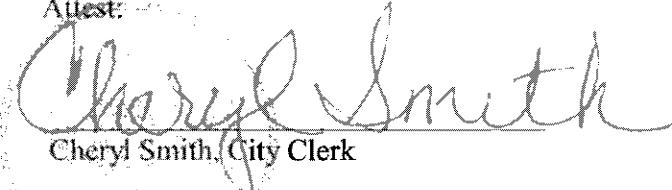
vice President

(Print Name and Title)

5th day of April, 2023

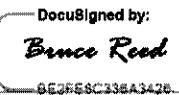
2/23/2023
____ day of _____, 20____

Attest:



Cheryl Smith, City Clerk

Attest:

DocuSigned by:

Bruce Reed
8E3F68C336A3426

(Signature)
Bruce Reed

Regional Practice Leader

(Print Name and Title)

6 day of April, 2023

2/24/2023
____ day of _____, 20____



ISO 9001:2015 CERTIFIED

ENGINEERS • PLANNERS • SCIENTISTS • CONSTRUCTION MANAGERS

1425 W Cypress Creek Road, Suite 101 • Fort Lauderdale, FL 33309 • Phone 954-776-1616

EXHIBIT A HOURLY RATE SCHEDULE

<u>JOB CLASSIFICATION</u>	<u>HOURLY RATE</u>
Project Assistant	\$95.00
Engineer-in-Training	\$130.00
Design Engineer	\$140.00
Senior Design Engineer	\$165.00
Project Engineer	\$185.00
Senior Project Engineer	\$210.00
Landscape Architect-in-Training	\$115.00
Landscape Architect	\$175.00
Project Manager	\$190.00
Senior Project Manager	\$210.00
Practice Leader	\$220.00
Regional Practice Leader	\$245.00
Construction Inspector	\$100.00
Senior Construction Inspector	\$125.00
Senior Project Engineer Construction	\$235.00
Project Administrator	\$190.00
Contract Support Specialist	\$140.00
Senior Inspector Roadway	\$130.00
Senior Inspector Bridge	\$150.00
Inspector Roadway	\$100.00
Survey CAD Technician	\$110.00
Surveyor	\$190.00
Senior Surveyor	\$215.00
Laser Scan/Specialty Survey Crew	\$350.00
Survey Field Crew Supervisor	\$135.00
UAS Operator (Drone Pilot)	\$135.00
Mobile Survey Analyst	\$135.00
2 Person Survey Crew	\$185.00
3 Person Survey Crew	\$260.00

February 2023

Employee-Owned Since 1988

THE CHALLENGE

WWW.KCI.COM

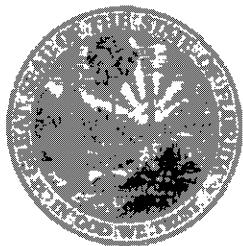


EXHIBIT A

**City of Key West
General Engineering Services Rate Schedule
As of February 2023**

Classification	Hourly Billing Rate*
Senior Principal Engineer/Planner	\$284.84
Principal Engineer/Planner	\$234.02
Associate Engineer/Planner	\$206.36
Senior Engineer/Planner	\$183.35
Engineer/Planner	\$139.49
Transportation Analyst	\$121.39
Technician I	\$96.94
Senior Technician	\$144.31
Associate Technician	\$177.99
Office Support	\$90.81
Data Analyst / Software Technician	\$132.28

**Hourly classification billing rates include actual wage rates, overhead and profit and will be locked for the initial year of the contract. Per the contract, these rates are subject to annual adjustments.*



Ron DeSantis, Governor

Melanie S. Griffin, Secretary



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STATE OF FLORIDA

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THE PROFESSIONAL ENGINEER HEREIN IS LICENSED UNDER THE
PROVISIONS OF CHAPTER 471, FLORIDA STATUTES

WILSON, CHARLES BRYAN

7226 LAUREL LANE
PARKLAND FL 330670000

LICENSE NUMBER: PE43447

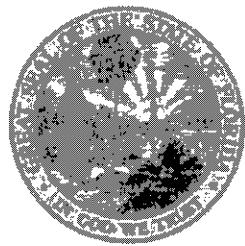
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Melanie S. Griffin, Secretary



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SCHWARZ, ANDREW JOSEPH

4041 CRESCENT PARK DR
RIVerview FL 33578

LICENSE NUMBER: PE86265

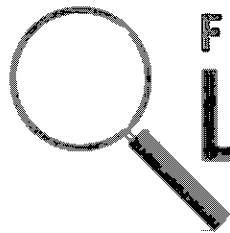
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BENJAMIN B HOYLE

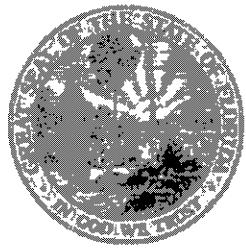
363 SW 33RD AVE, DEERFIELD BEACH, FL 33442-2359

[Complaints 0](#)

[Print](#)

License Type
Surveyor and Mapper
Surveyor and Mapper
Surveyor of Record For

	License#	Issued	Expires	Status
	LS6739	06/16/09	02/28/11	Expired
	LS6769	12/17/09	02/28/25	Active
	LB6901	10/30/98	02/28/23	Active



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KELLEY, BRANDON WADE

4306 SW 282ND STREET
NEWBERRY FL 32669

LICENSE NUMBER: PE88997

EXPIRATION DATE: FEBRUARY 28, 2025

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Julie I. Brown, Secretary



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BOARD OF LANDSCAPE ARCHITECTURE

THE LANDSCAPE ARCHITECT HEREIN HAS REGISTERED UNDER THE
PROVISIONS OF CHAPTER 481, FLORIDA STATUTES

REED, BRUCE K

KCI TECHNOLOGIES INC
1000 SW 14TH DR
BOCA RATON FL 33486

LICENSE NUMBER: LA0001479

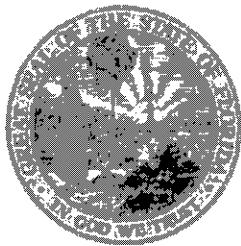
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ZUCCARO, ROBERT M.

10016 COUNTRY BROOK RD.
BOCA RATON FL 33428

LICENSE NUMBER: PE17931

EXPIRATION DATE: FEBRUARY 28, 2025

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Julie I. Brown, Secretary



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MOHLER, TODD KEENE

4711 NE 13 AVENUE
OAKLAND PARK FL 33334

LICENSE NUMBER: LA0001594

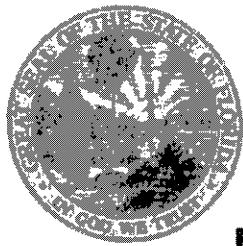
EXPIRATION DATE: NOVEMBER 30, 2023

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BOARD OF LANDSCAPE ARCHITECTURE

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HOOSAC, KIRK PATRICK

4426 NW 20 AVENUE
OAKLAND PARK FL 33309

LICENSE NUMBER: LA6667091

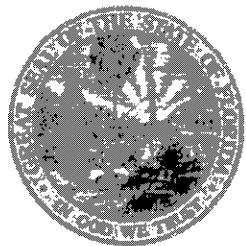
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LEONE, NICHOLAS JACK

20970 VIA ALAMANDA UNIT 2
BOCA RATON FL 33428

LICENSE NUMBER: PE85655

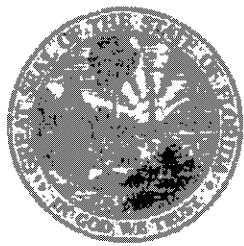
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KLINÉ, STANLEY MARK

1704 NE 15 STREET
FT LAUDERDALE FL 33304

LICENSE NUMBER: PE44016

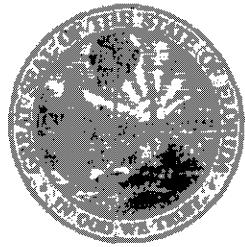
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MIRABELLA, JACOB ALLEN

14201 DAMSELFY DR
TAMPA FL 33625

LICENSE NUMBER: PE84674

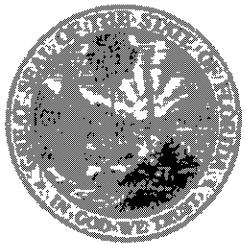
EXPIRATION DATE: FEBRUARY 28, 2025

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NEDDEFF, MATTHEW D

912 SE 12TH WAY
DEERFIELD BEACH FL 33441

LICENSE NUMBER: PE71611

EXPIRATION DATE: FEBRUARY 28, 2025

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LICENSEE DETAILS

Licensee Information

Name:

CORSA, ROLANDO (Primary Name)

Main Address:

8112 CHAMPIONS FOREST WAY
TAMPA Florida 33635

County:

HILLSBOROUGH

License Information

License Type:

Professional Engineer

Rank:

Prof Engineer

License Number:

73191

Status:

Current,Active

Licensure Date:

06/09/2011

Expires:

02/28/2025

Special Qualifications

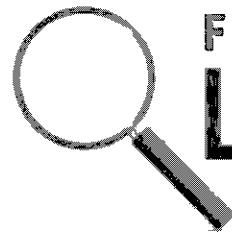
Civil

Qualification Effective

02/12/2005

Alternate Names

—



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*AS MAINTAINED BY THE
DIVISION OF CONSUMER SERVICES

PAUL RICHARD JACKSON

2025 ELK SPRING DR, BRANDON, FL 33511-1726

[Complaints 0](#)

[Print](#)

License Type
Surveyor and Mapper
Surveyor of Record For

License#	Issued	Expires	Status
LS6719	06/12/09	02/28/25	Active
LB6901	10/30/98	02/28/23	Active

CITY OF KEY WEST, FLORIDA

Business Tax Receipt

This Document is a business tax receipt

Holder must meet all City zoning and use provisions.

P.O. Box 1409, Key West, Florida 33040 (305) 809-3955

Business Name KCI TECHNOLOGIES LLC

Location Addr 1425 WEST CYPRESS CREEK RD STE 101

Lic NBR/Class LIC2023-000197 STATE LICENSED PROFESSIONAL

Issued Date 3/14/2023 **Expiration Date: September 30, 2023**

ATTORNEY, PHYSICIAN OR OTHER STATE LICENSED
PROFESSIONAL

Comments: PROFESSIONAL ENGINEER

Restrictions: BTR FEE EXEMPT

KCI TECHNOLOGIES LLC
936 RIDGEBROOK RD

SPARKS, MD 21152

This document must be prominently displayed.

KCI TECHNOLOGIES LLC

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/01/2023

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 any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER		CONTACT NAME: Please See Below:	
USI Insurance Services NW PR 601 Union Street, Suite 1000 Seattle, WA 98101		PHONE (A/C, No, Ext): 206 441-6300	FAX (A/C, No): 610-362-8530
		EMAIL ADDRESS: Seattle.PLCertRequest@usi.com	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: Hanover Insurance Company	22292
INSURED		INSURER B: Hanover American Insurance Company	36064
Kittelson & Associates, Inc. 851 SW 6th Avenue, Suite 600 Portland, OR 97204		INSURER C: XL Specialty Insurance Company	37885
		INSURER D: Allmerica Financial Benefit Ins. Co.	41840
		INSURER E:	
		INSURER F:	

COVERAGES		CERTIFICATE NUMBER:		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	ADD'L SUBR INSR 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"/> Stop Gap	X	X ZH2D78128004	01/01/2023	01/01/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (EA occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 Stop Gap \$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC					
	OTHER:					
D	AUTOMOBILE LIABILITY	X	X AW2D78128705	01/01/2023	01/01/2024	COMBINED SINGLE LIMIT (EA accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ EACH OCCURRENCE \$ AGGREGATE \$ DED RETENTION \$
	<input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY					
	UMBRELLA LIAB	OCUR				
	EXCESS LIAB	CLAIMS-MADE				
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N	X WM2D78128904	01/01/2023	01/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> N <input type="checkbox"/> N/A				
C	Professional Liability Incl. Pollution		X DPR5006540	01/01/2023	01/01/2024	\$5,000,000 per claim \$5,000,000 annl aggr.

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

**Please Note: The limits shown above may not represent the full limits of coverage carried by the Named Insured, but are shown as evidence that coverage is carried with limits at least as high as is required by

contract.**

(See Attached Descriptions)

CERTIFICATE HOLDER		CANCELLATION	
City of Key West 1300 White Street, Key West, FL 33040		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>Jean A. Ryan</i>	

DESCRIPTIONS (Continued from Page 1)

RE: KAI PN 28559 - City of Key West (RFQ # 22-006).

The General Liability and Automobile Liability policies include an automatic Additional Insured endorsement that provides Additional Insured status to City of Key West, only when there is a written contract that requires such status, and only with regard to work performed by or on behalf of the named insured. The General Liability and Automobile Liability policies contain a special endorsement with "Primary and Noncontributory" wording, when required by written contract. The General Liability, Automobile Liability and Workers Compensation, Professional Liability policies provide a Waiver of Subrogation when required by written contract. The General Liability, Automobile Liability and Workers Compensation, Professional Liability policies include an endorsement providing that 30 days notice of cancellation will be given to the Certificate Holder by the Insurance Carrier.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED BY CONTRACT OR AGREEMENT – WITH PRODUCTS-COMPLETED OPERATIONS COVERAGE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following is added to SECTION II – WHO IS AN INSURED:

Additional Insured – Written Contract, Agreement or Permit

- a. Any person or organization as required by a written contract, agreement or permit to add as an additional insured on your policy is an additional insured but only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by your acts or omissions, or the acts or omissions of those acting on your behalf, and only with respect to:
 - (1) "Your work" for the additional insured(s) designated in the contract, agreement or permit;
 - (2) Premises you own, rent, lease or occupy;
 - (3) Your maintenance, operation or use of equipment leased to you; or
 - (4) "Your work" for the additional insured(s) designated in the contract, agreement or permit including "bodily injury" or "property damage" included in the "products-completed operations hazard" provided that:
 - (a) This Coverage Part provides such coverage; and
 - (b) The written contract, agreement or permit requires such coverage for the additional insured.
- b. If the written contract or agreement specifically requires you to add an additional insured to your policy via endorsement CG 20 10 11 85, CG 20 10 10 93, CG 20 10 03 97, CG 20 10 10 01 or endorsement CG 20 37 10 01, then the words "caused in whole or in part by" in paragraph a. above are replaced by the words "arising out of".
- c. The insurance afforded to such additional insured described above:
 - (1) Only applies to the extent permitted by law.

- (2) Will not be broader than the insurance which you are required by the contract, agreement or permit to provide for such additional insured.
- (3) Is primary to and will not seek contribution from any other insurance available to such additional insured provided that:
 - (a) The additional insured is a Named Insured under such other insurance; and
 - (b) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.
- (4) Will not be broader than coverage provided to any other insured.
- (5) Does not apply if the "bodily injury", "property damage" or "personal and advertising injury" is otherwise excluded from coverage under this Coverage Part, including any endorsements thereto.
- d. This provision does not apply:
 - (1) Unless the written contract or agreement was executed or permit was issued prior to the "bodily injury", "property damage", or "personal and advertising injury".
 - (2) To any person or organization included as an insured by another endorsement issued by us and made part of this Coverage Part.
 - (3) If the "bodily injury", "property damage", or "personal and advertising injury" arises out of sole negligence of the additional insured.
 - (4) To any lessor of equipment:
 - (a) After the equipment lease expires; or
 - (b) If the "bodily injury", "property damage", or "personal and advertising injury" arises out of sole negligence of the lessor

(5) To any:

- (a) Owners or other interests from whom land has been leased if the "occurrence" takes place or the offense is committed after the lease for the land expires; or**
- (b) Managers or lessors of premises if:**
 - (i) The occurrence takes place after you cease to be a tenant in that premises; or**
 - (ii) The "bodily injury", "property damage", "personal and advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor.**

(6) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services.

This exclusion applies even if the claims against any insured allege negligence or

other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" or the offense which caused the "personal and advertising injury" involved the rendering of or failure to render any professional services by or for you.

B. With respect to the insurance afforded to these additional insureds, the following is added to SECTION III – LIMITS OF INSURANCE:

The most we will pay on behalf of the additional insured for a covered claim is the lesser of the amount of insurance:

- 1. Required by the written contract, agreement or permit described in paragraph A.a.; or**
- 2. Available under the applicable Limits of Insurance shown in the Declarations or any endorsement to this policy.**

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL GENERAL LIABILITY BROADENING ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SUMMARY OF COVERAGES

1.	Additional Insured by Contract, Agreement or Permit	Included
2.	Additional Insured – Primary and Non-Contributory	Included
3.	Blanket Waiver of Subrogation	Included
4.	Bodily Injury Redefined	Included
5.	Broad Form Property Damage – Borrowed Equipment, Customers Goods & Use of Elevators	Included
6.	Knowledge of Occurrence	Included
7.	Liberalization Clause	Included
8.	Medical Payments – Extended Reporting Period	Included
9.	Newly Acquired or Formed Organizations - Covered until end of policy period	Included
10.	Non-owned Watercraft	51 ft.
11.	Supplementary Payments Increased Limits	
	- Bail Bonds	\$2,500
	- Loss of Earnings	\$1000
12.	Unintentional Failure to Disclose Hazards	Included
13.	Unintentional Failure to Notify	Included

This endorsement amends coverages provided under the Commercial General Liability Coverage Part through new coverages, higher limits and broader coverage grants.

1. **Additional Insured by Contract, Agreement or Permit**

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

Additional Insured by Contract, Agreement or Permit

- Any person or organization with whom you agreed in a written contract, written agreement or permit that such person or organization to add an additional insured on your policy is an additional insured only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by your acts or omissions, or the acts or omissions of those acting on your behalf, but only with respect to:

(1) "Your work" for the additional insured(s) designated in the contract, agreement or permit;

(2) Premises you own, rent, lease or occupy; or

(3) Your maintenance, operation or use of equipment leased to you.

- The insurance afforded to such additional insured described above:

(1) Only applies to the extent permitted by law; and

(2) Will not be broader than the insurance which you are required by the contract, agreement or permit to provide for such additional insured.

- (3) Applies on a primary basis if that is required by the written contract, written agreement or permit.
- (4) Will not be broader than coverage provided to any other insured.
- (5) Does not apply if the "bodily injury", "property damage" or "personal and advertising injury" is otherwise excluded from coverage under this Coverage Part, including any endorsements thereto.
- c. This provision does not apply:
 - (1) Unless the written contract or written agreement was executed or permit was issued prior to the "bodily injury", "property damage", or "personal injury and advertising injury".
 - (2) To any person or organization included as an insured by another endorsement issued by us and made part of this Coverage Part.
 - (3) To any lessor of equipment:
 - (a) After the equipment lease expires; or
 - (b) If the "bodily injury", "property damage", "personal and advertising injury" arises out of sole negligence of the lessor
 - (4) To any:
 - (a) Owners or other interests from whom land has been leased which takes place after the lease for the land expires; or
 - (b) Managers or lessors of premises if:
 - (i) The occurrence takes place after you cease to be a tenant in that premises; or
 - (ii) The "bodily injury", "property damage", "personal injury" or "advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor.
 - (5) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" or the offense which caused the "personal and

"advertising injury" involved the rendering of or failure to render any professional services by or for you.

- d. With respect to the insurance afforded to these additional insureds, the following is added to **SECTION III - LIMITS OF INSURANCE**:

The most we will pay on behalf of the additional insured for a covered claim is the lesser of the amount of insurance:

- 1. Required by the contract, agreement or permit described in Paragraph a.; or
- 2. Available under the applicable Limits of Insurance shown in the Declarations.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

2. Additional Insured - Primary and Non-Contributory

The following is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 4. Other insurance:

Additional Insured - Primary and Non-Contributory

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **SECTION II - WHO IS AN INSURED**, is primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss covered under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the

Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

- (1) For the sole negligence of the Additional Insured;
- (2) When the Additional Insured is an Additional Insured under another primary liability policy; or
- (3) when b. below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

- (1) This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;
 - (c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional with permission of the owner; or
 - (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of **SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**.
- (2) When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.
- (3) 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.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each

insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers

3. Blanket Waiver of Subrogation

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

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damage under this coverage form. The damage must arise out of your activities under a written contract with that person or organization. This waiver applies only to the extent that subrogation is waived under a written contract executed prior to the "occurrence" or offense giving rise to such payments.

4. Bodily Injury Redefined

SECTION V – DEFINITIONS, Definition 3. "bodily injury" is replaced by the following:

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

5. Broad Form Property Damage – Borrowed Equipment, Customers Goods, Use of Elevators

- a. **SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Paragraph 2. **Exclusions** subparagraph j. is amended as follows:

Paragraph (4) does not apply to "property damage" to borrowed equipment while at a jobsite and not being used to perform operations.

Paragraphs (3), (4) and (6) do not apply to "property damage" to "customers goods" while on your premises nor do they apply to the use of elevators at premises you own, rent, lease or occupy.

- b. The following is added to **SECTION V – DEFINITIONS**:

24. "Customers goods" means property of your customer on your premises for the purpose of being:

- a. worked on; or
- b. used in your manufacturing process.
- c. The insurance afforded under this provision is excess over any other valid and collectible property insurance (including deductible) available to the insured whether primary, excess, contingent

6. Knowledge of Occurrence

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

- e. Notice of an "occurrence", offense, claim or "suit" will be considered knowledge of the insured if reported to an individual named insured, partner, executive officer or an "employee" designated by you to give us such a notice.

7. Liberalization Clause

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

Liberalization Clause

If we adopt any revision that would broaden the coverage under this Coverage Form without additional premium, within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this Coverage Part.

8. Medical Payments – Extended Reporting Period

- a. **SECTION I – COVERAGES, COVERAGE C – MEDICAL PAYMENTS**, Paragraph 1. **Insuring Agreement**, subparagraph a.(3)(b) is replaced by the following:
 - (b) The expenses are incurred and reported to us within three years of the date of the accident; and
- b. This coverage does not apply if **COVERAGE C – MEDICAL PAYMENTS** is excluded either by the provisions of the Coverage Part or by endorsement.

9. Newly Acquired Or Formed Organizations

SECTION II – WHO IS AN INSURED, Paragraph 3.a. is replaced by the following:

- a. Coverage under this provision is afforded until the end of the policy period.

10. Non-Owned Watercraft

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Paragraph 2. **Exclusions**, subparagraph g.(2) is replaced by the following:

g. Aircraft, Auto Or Watercraft

- (2) A watercraft you do not own that is:

- (a) Less than 51 feet long; and
- (b) Not being used to carry persons or property for a charge;

This provision applies to any person who, with your consent, either uses or is responsible for the use of a watercraft.

11. Supplementary Payments Increased Limits

SECTION I – SUPPLEMENTARY PAYMENTS COVERAGES A AND B, Paragraphs 1.b. and 1.d. are replaced by the following:

- 1.b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

- 1.d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1000 a day because of time off from work.

12. Unintentional Failure to Disclose Hazards

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

We will not disclaim coverage under this Coverage Part if you fail to disclose all hazards existing as of the inception date of the policy provided such failure is not intentional.

13. Unintentional Failure to Notify

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

Your rights afforded under this policy shall not be prejudiced if you fail to give us notice of an "occurrence", offense, claim or "suit", solely due to your reasonable and documented belief that the "bodily injury" or "property damage" is not covered under this policy.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

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

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

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

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
 - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

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

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

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

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible; or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

- (2) Any loss, cost or expense arising out of any:
 - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

- (5) "Bodily injury" or "property damage" arising out of:

- (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
- (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

h. Mobile Equipment

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

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

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

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;

- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

(4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under the Definitions section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-related

Any loss, cost or expense arising out of any:

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

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

COVERAGE C – MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
 - (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:
 - (a) The accident takes place in the "coverage territory" and during the policy period;
 - (b) The expenses are incurred and reported to us within one year of the date of the accident; and
 - (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
 - (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

- 1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
 - a. All expenses we incur.
 - b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
 - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
 - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
 - e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
 - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II – WHO IS AN INSURED

- 1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
 - (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.
 - (2) "Property damage" to property:
 - (a) Owned, occupied or used by;
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
 - b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C;
 - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage B.

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

- b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c. You and any other involved insured must:

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph c. below.

b. Excess Insurance

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability.
- (b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

(2) When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) 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.

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

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;

- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

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

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
 - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

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

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

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

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

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

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

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

- a. Means:
 - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
 - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AGGREGATE LIMITS OF INSURANCE PER PROJECT AND PER LOCATION WITH CAP

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Policy Aggregate: \$ 10,000,000
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(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. The following is added to SECTION III – LIMITS OF INSURANCE, paragraph 2.:

The General Aggregate Limit applies separately to:

- a. Construction projects away from premises owned or rented to you; and
- b. Each "location" owned by or rented to you.

If the Schedule above is completed, however, a Policy Aggregate Limit applies. The most we will pay for the sum of all damages, except for damages included in the "products-completed operations hazard", regardless of the number of insureds, claims made or "suits" brought, persons or organizations making claims or bringing "suits",

or "locations", is the Policy Aggregate Limit identified in the Schedule above.

B. This endorsement does not apply to damages included in the "products-completed operations hazard".

C. For the purposes of this endorsement, the following definition is added to SECTION V – DEFINITIONS:

1. "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GOLD PROPERTY BROADENING ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM

CAUSES OF LOSS – SPECIAL FORM

BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM

BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM – ACTUAL LOSS SUSTAINED

The following is added to **C. Limits Of Insurance** of Building and Personal Property Coverage Form CP 00 10:

The limits applicable to the Coverages included in this endorsement may either be in addition to or included within the applicable Limits of Insurance. For application of the limits, refer to each coverage within this endorsement.

Refer to **SECTION V – DEFINITIONS** of this endorsement for additional words or phrases which appear in quotation marks as they have special meanings.

I. COVERAGES**A. Scheduled Coverages**

The coverages in this endorsement amend the coverage provided under the Building and Personal Property Coverage Form, Causes of Loss – Special Form, Business Income (and Extra Expense) Coverage Form and Business Income (and Extra Expense) Coverage - Actual Loss Sustained through new coverages and substitute coverage grants. These coverages are subject to the provisions applicable to this policy, except where amended within this endorsement. If any of the property covered by this endorsement is also covered under any other provisions of the policy of which this endorsement is made a part, or if more than one coverage under this endorsement applies, in the event of loss or damage, you may choose only one of these coverages to apply to that loss. The most we will pay in this case is the limit of insurance applying to the coverage you select. Coverages included in this endorsement apply either separately to each described premises or on an "occurrence" basis. Refer to each coverage within this endorsement for application of coverage.

		Limits of Insurance	Amended Limits of Insurance	Page
1.	Additional Covered Property	Included	N/A	3
2.	Brands & Labels	Included	N/A	4
3.	Broadened Building Coverage	Included	N/A	4
4.	Broadened Business Personal Property	Included	N/A	4
5.	Building Limit - Inflation Guard	Included	N/A	5
6.	Business Income & Extra Expense from Dependent Properties	\$150,000	\$	5
7.	Catastrophe Allowance	\$50,000	N/A	5
8.	Computer and Funds Transfer Fraud	\$15,000	\$	6
9.	Consequential Loss to Stock	Included	N/A	6
10.	Contract Penalties	\$50,000	\$	6
11.	Debris Removal	\$250,000	\$	6
12.	Denial of Access to Premises	Included	N/A	7
13.	E-Commerce	\$10,000	\$	7
14.	Electronic Data Processing Equipment	Included	N/A	8
15.	Employee Theft including ERISA Compliance	\$100,000	\$	8
16.	Employee Tools and Work Clothing	\$25,000	\$	10
17.	Expediting Expense	\$50,000	\$	11
18.	Extended Business Income	180 Days	N/A	11

- (b) Acceptance of fraudulent bills of lading or shipping receipts.
- (2) The most we will pay under this additional coverage is \$50,000 for any one "occurrence" or the Limit of Insurance shown in the Amended Limits Section of this Endorsement.

59. Water Damage, Other Liquids, Powder or Molten Material Damage

F. Additional Coverage Extensions, Paragraph 2. of Causes of Loss – Special Form CP 10 30 is replaced by the following:

2. Water Damage, Other Liquids, Powder or Molten Material Damage

- a. If loss or damage caused by or resulting from covered water damage or other liquid, powder or molten material damage loss occurs, we will also pay the cost to tear out and replace any part of the building or structure, or, in the case of underground pipes, lawns, shrubs or paved areas, to repair damage to the system or appliance from which the water or other substance escapes.
- b. Payment under this Additional Coverage is included within the applicable Limit of Insurance. The maximum we will pay for loss or damage to lawns, shrubs or paved areas is \$50,000 per "occurrence" or the Limit of Insurance shown in the Amended Limits Section of this Endorsement.

THIS IS NOT FLOOD INSURANCE OR PROTECTION FROM AN INUNDATION OF SURFACE WATER, HOWEVER CAUSED.

60. Windblown Debris

The following is added to **A. Coverage, Paragraph 5. Coverage Extensions** of Building and Personal Property Coverage Form CP 00 10:

Windblown Debris

- (1) We will pay your reasonable expenses to remove the windblown debris (including trees) from the described premises, if it is carried to the described premises from the premises of others by wind, during the policy period.

- (2) The most we will pay in any one

"occurrence" in total for the removal of all windblown debris under this Extension is \$10,000 or the Limit of Insurance shown in the Amended Limits Section of this Endorsement.

61. Worldwide Property Off-Premises

The following is added to **A. Coverage, Paragraph 5. Coverage Extensions** of Building and Personal Property Coverage Form CP 00 10:

Worldwide Property Off-Premises

- (1) You may extend the insurance that applies to your Business Personal Property and Personal Property of Others to apply to that property while it is temporarily outside the coverage territory if it is:
 - (a) Temporarily at a location you do not own, lease or operate;
 - (b) Temporarily on display or exhibit at any fair, trade show or exhibition;
 - (c) Samples of your "stock" in trade in the custody of your sales representatives; or
 - (d) While "in transit" between the described premises and a location described in (a), (b) or (c) above.
- (2) The most we will pay for loss or damage under this Extension is \$75,000 or the Limit of Insurance shown in the Amended Limits Section of this Endorsement.
- (3) This Extension provides an additional amount of insurance.

B. Coverages Included within the Blanket Limit of Insurance

1. Accounts Receivable

The following is added to **A. Coverage, Paragraph 4. Additional Coverages** of Building and Personal Property Coverage Form CP 00 10:

Accounts Receivable

- (1) We will pay for loss or damage caused by or resulting from a Covered Cause of Loss to your records of Accounts Receivable.

Accounts Receivable means:

- (a) All amounts due from your customers that you are unable to collect;
- (b) Interest charges on any loan

maintenance of data processing equipment or component parts.

(b) Errors or omissions in processing or copying. But if errors or omissions in processing or copying results in fire or explosion, we will pay for the direct loss or damage caused by the fire or explosion;

(c) Erasure of "research and development documentation"; or

(d) Unauthorized instructions to transfer property to any person or place.

(4) Coverage provided by this Extension does not apply to "research and development documentation" which exist as "electronic data".

(5) We will not pay for loss or damage to "research and development documentation" until you actually replicate such documentation. Repairs or replication must be made as soon as reasonably possible after the loss or damage, but in no event later than two years after the loss or damage unless we grant an extension in writing prior to the expiration of the two-year period.

(6) We will not pay for loss or damage to "research and development documentation" applicable to:

- (a) Products that are obsolete;
- (b) Existing products you have withdrawn from the market; or
- (c) Existing products you have not sold in the last twelve months prior to the loss.

(7) Regardless of the number of insured locations involved, the most we will pay under this Extension for loss or damage in any one "occurrence" at a described premises is subject to the Blanket Coverage Limit of Insurance or the Limit of Insurance shown in the Amended Limits Section of this Endorsement.

9. Valuable Papers and Records (Other Than Electronic Data)

A. Coverage, Paragraph 5. Coverage Extensions, subparagraph c. of Building and Personal Property Coverage Form CP 00 10 is replaced by the following:

c. Valuable Papers and Records (Other Than Electronic Data)

(1) You may extend the insurance that applies to Your Business Personal Property to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control caused by a Covered Cause of Loss. This Extension includes the cost to research, replace or restore the lost information that previously existed on "valuable papers and records" for which duplicates do not exist.

(2) The following Exclusions do not apply to this Coverage Extension:

- (a) Earth Movement; and
- (b) Water.

(3) The most we will pay under this Extension for loss or damage in any one "occurrence" at a described premises is subject to the Blanket Coverage Limit of Insurance or the Limit of Insurance shown in the Amended Limits Section of this Endorsement.

IV. VALUATION

A. E. Loss Conditions, Paragraph 7. Valuation, subparagraph b. of Building and Personal Property Coverage Form CP 00 10 is replaced by the following:

b. If the Limit of Insurance for Building satisfies the Additional Condition, Coinsurance, and the cost to repair or replace the damaged building property is \$2,500 or less, we will pay the cost of building repairs or replacement.

The cost of building repairs or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.

However, the following property will be valued at the actual cash value even when attached to the building:

- (1) Awnings or floor coverings;
- (2) Appliances for refrigerating, ventilating, cooking, dishwashing or laundering;
- (3) Outdoor equipment or furniture; or
- (4) Retaining walls.

B. The following is added to E. Loss Conditions,

m. "Fine Arts"

We will pay the lesser of:

- (1) The market value at the time of loss or damage;
- (2) The reasonable cost of repair or restoration to the condition immediately before the covered loss or damage; or
- (3) The cost of replacement with substantially identical property.
For pairs or sets, we will either:
 - (a) Repair or replace any part to restore the value and condition of the pair or set to that immediately before the covered loss or damage; or
 - (b) Pay the difference between the value of the pair or set before and after the covered loss or damage.

n. Property of Others – our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.

o. We may elect to defend you against suits arising from claims of owners or property. We will do this at our expense.

p. Labor, materials and services that you furnish or arrange on personal property of others are valued based on the actual cost of the labor, materials and services.

q. Finished "stock" you manufactured at the selling price less discounts and expenses you otherwise would have had.

r. "Prototypes"

We will not pay more than the lesser of the following amounts:

(1) The replacement cost of such property used for the same product, but only if replacement cost is shown as applicable to Personal Property in the Declarations.

However, when replacement with identical property is impossible or unnecessary, the amount of loss will be based on the cost to replace with similar property used to perform the same functions. Property of others will be valued in the same manner, but we

will not pay more than the amount for which you are legally liable; or

- (2) The amount you actually spend to repair or replace lost or damaged "prototypes" used for the same purpose.

s. "Research and development documentation":

We will not pay more than the least of the following amounts:

- (1) Your cost actually spent to reproduce lost or damaged "research and development documentation" from back-up files or original source documents;
- (2) The reasonable cost necessary to research, repair, restore, recreate, reconstitute, reproduce or replace "research and development documentation", used for the same product, to their condition immediately before the loss or damage;
- (3) If identical "research and development documentation" cannot be purchased, the cost to purchase such documentation of comparable kind, functionality and quality; or
- (4) The amount you actually spend to research, repair, restore, recreate, reconstitute, reproduce or replace "research and development documentation", used for the same product.

But we will not pay more than the cost to restore "research and development documentation" to its condition immediately prior to the loss.

V. DEFINITIONS

The following is added to Paragraph H. of Building and Personal Property Coverage Form CP 00 10:

H. Definitions

1. "Antiques" means an object having value because its:
 - a. Craftsmanship is in the style or fashion of former times; and
 - b. Age is 100 years or older.
2. "Banking premises" means the interior of that portion of any building occupied by a banking institution or similar safe depository.
3. "Communicable disease" means a bacterial micro-organism transmitted through human contact with food.

premises, including:

- (1) Payroll; and
- (2) The amount of charges which are the legal obligation of the tenant(s) but would otherwise be your obligations.

41. "Research and development documentation" means written evidence of facts, information, processes, concepts or formulas that are directly related to the development of new products or enhancement of existing products. Written evidence includes written papers, plans, manuscripts, written or inscribed documents or plans.

"Research and development documentation" does not include "valuable papers and records", accounts receivable or "media", "software" or "data".

42. "Research and development operations" means your business activities that are directly related to the development of new products or the enhancement of existing products.

43. "Scientific and professional equipment" means medical, engineering, veterinary, measurement, recording, analyzing or similar equipment.

44. "Securities" means negotiable and nonnegotiable instruments or contracts representing either "money" or property and includes:

- a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
- b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you.

but does not include "money".

45. "Soft cost expenses" means additional:

- a. Realty taxes and other assessments that you incur for the period of time that construction has been extended beyond the projected completion date;
- b. Interest on money borrowed to finance construction, remodeling, renovation or repair; and
- c. Advertising, public relations and promotional expenses.

46. "Software" means:

- a. "Media";
- b. "Electronic data";
- c. "Programs and applications"; and
- d. "Proprietary programs".

47. "Spoilage" means any detrimental change in physical state of "perishable goods". Detrimental change includes, but is not limited to, thawing of frozen goods, warming of refrigerated goods, solidification of liquid or molten material, chemical reactions to material in process, and reduction in value of time sensitive materials.

48. "Theft" means the unlawful taking of property to the deprivation of the insured.

49. "Transfer account" means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of "money" and "securities":

- a. By means of electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or
- b. By means of written instructions establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic funds transfer system.

50. "Valuable papers and records" means:

- a. Inscribed, printed or written:
 - (1) Documents;
 - (2) Manuscripts; and
 - (3) Records

including abstracts, books, deeds, drawings, films, maps or mortgages; and

- b. Similar items stored electronically.

But, "valuable papers and records" does not mean "money" or "securities".

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NOTICE OF CANCELLATION to designated ENTITY(S)
(Including Nonpayment of Premium)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
HANOVER COMMERCIAL FOLLOW FORM EXCESS AND UMBRELLA POLICY
COMMERCIAL PROPERTY COVERAGE PART
BUSINESS AUTO COVERAGE FORM
BUSINESS OWNERS COVERAGE FORM

SCHEDULE

Name of Designated Entity	Mailing Address or Email Address	Number Days Notice
Any Person or Organization to Whom you have agreed in a written contract (See form 221-0163)	The Address for that person or organization included in such written request from you to us.	30

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

If we cancel this policy for any reason, including nonpayment of premium, we will give written notice of such cancellation to the Designated Entity(s) shown in the Schedule. Such notice may be delivered or sent by any means of our choosing. The notice to the Designated Entity(s) will state the effective date of cancellation.

Unless otherwise noted in the Schedule above, such notice will be provided to the Designated Entity(s) no

more than the number of days in advance of the effective date of cancellation that we are required to provide to the Named Insured for such cancellation. If the reason for cancellation is nonpayment of premium, however, we will provide ten days notice.

Such notice of cancellation is solely for the purpose of informing the Designated Entity(s) of the effective date of cancellation and does not grant, alter, or extend any rights or obligations under this policy.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ THIS CAREFULLY.

It is agreed that the following complete wording for from 401-1236:

Any person or Organization to Whom you have agreed in a written contract that notice of cancellation or non-renewal of this policy will be given, but only if:

1. You send us a written request to provide such notice, including the Name and Address of such person or organization, after the First Named Insured receives notice from us of Cancellation or Non-Renewal of this policy; and
2. We receive such written request at least 14 days before the beginning of the applicable number of days shown in this schedule.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the policy other than as above stated.

(Completion of the following, including countersignature, is required to make this endorsement effective only when it is issued subsequent to preparation of the Policy.)

Issued to Kittelson & Associates Inc.

Countersigned by

Authorized Representative of the Company



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTUAL LIABILITY – RAILROADS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Scheduled Railroad:	Designated Job Site:
as required by written contract agreement or permit	as required by written contract agreement or permit

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

With respect to operations performed for, or affecting, a Scheduled Railroad at a Designated Job Site, the definition of "insured contract" in the Definitions section is replaced by the following:

9. "Insured Contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (1) above and supervisory, inspection, architectural or engineering activities.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL GENERAL LIABILITY ENHANCEMENT ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART**SUMMARY OF COVERAGES**

1.	Additional Insured – Broad Form Vendors	Included
2.	Aggregate Limit per Location	Included
3.	Alienated Premises	Included
4.	Broad Form Named Insured	Included
5.	Extended Property Damage	Included
6.	Incidental Malpractice (Employed nurses, EMT's & paramedics)	Included
7.	Mobile Equipment Redefined	Included
8.	Personal Injury – Broad Form	Included
9.	Product Recall Expense	
	- Product Recall Expense Each Occurrence Limit	\$25,000
	- Product Recall Expense Aggregate Limit	\$50,000
	- Product Recall Deductible	\$500
10.	Property Damage Legal Liability – Broad Form	
	- Fire, Lightning, Explosion, Smoke and Leakage from Fire Protective Systems Damage Limit	\$1,000,000

This endorsement amends coverages provided under the Commercial General Liability Coverage Part through new coverages, higher limits and broader coverage grants.

1. Additional Insured – Broad Form Vendors

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

Additional Insured – Broad Form Vendors

- Any person or organization that is a vendor with whom you agreed in a written contract or written agreement to include as an additional insured under this Coverage Part is an insured, but only with respect to liability for "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business.
- The insurance afforded to such vendor described above:
 - Only applies to the extent permitted by law;
 - Will not be broader than the insurance which you are required by the contract or agreement to provide for such vendor;
 - Will not be broader than coverage provided to any other insured; and

(4) Does not apply if the "bodily injury", "property damage" or "personal and advertising injury" is otherwise excluded from coverage under this Coverage Part, including any endorsements thereto

c. With respect to insurance afforded to such vendors, the following additional exclusions apply:

The insurance afforded to the vendor does not apply to:

- "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reasons of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement;
- Any express warranty unauthorized by you;
- Any physical or chemical change in the product made intentionally by the vendor;
- Repackaging, unless unpacked solely for the purpose of inspection, demonstration,

testing, or the substitution of parts under instruction from the manufacturer, and then repackaged in the original container;

(5) Any failure to make such inspection, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business in connection with the sale of the product;

(6) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(7) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor;

(8) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (a) The exceptions contained within the exclusion in subparagraphs (4) or (6) above; or
- (b) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(9) "Bodily injury" or "property damage" arising out of an "occurrence" that took place before you have signed the contract or agreement with the vendor.

(10) To any person or organization included as an insured by another endorsement issued by us and made part of this Coverage Part.

(11) Any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

d. With respect to the insurance afforded to these vendors, the following is added to **SECTION III – LIMITS OF INSURANCE**:

The most we will pay on behalf of the vendor for a covered claim is the lesser of the amount of insurance:

1. Required by the contract or agreement described in Paragraph a.; or

2. Available under the applicable Limits of Insurance shown in the Declarations;

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

2. Aggregate Limit Per Location

a. **SECTION III – LIMITS OF INSURANCE**, the General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

b. For purpose of this coverage only, the following is added to **SECTION V – DEFINITIONS**:

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

3. Alienated Premises

SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Paragraph 2. Exclusions, subparagraph j.(2) is replaced by the following:

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises and occurred from hazards that were known by you, or should have reasonably been known by you, at the time the property was transferred or abandoned.

4. Broad Form Named Insured

If you are designated in the Declarations as anything other than an individual, then any organization:

a. Over which you maintained a combined ownership interest of more than 50% on the effective date of this policy;

b. That is not a partnership, joint venture or limited liability company; and

c. That is not excluded by any endorsement to this policy, will qualify as a Named Insured if there is no other similar insurance available to that organization, or that would be available but for exhaustion of its limits.

Any such organization will cease to qualify as a Named Insured as of the date during the policy period when the combined ownership interest of the Named Insureds in the organization equals or falls below 50%.

5. Extended Property Damage

SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Paragraph 2. Exclusions, subparagraph a. is replaced by the following:

a. Expected Or Intended Injury

Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

6. Incidental Malpractice – Employed Nurses, EMT's and Paramedics

SECTION II – WHO IS AN INSURED, paragraph 2.a.(1)(d) does not apply to a nurse, emergency medical technician or paramedic employed by you if you are not engaged in the business or occupation of providing medical, paramedical, surgical, dental, x-ray or nursing services.

7. Mobile Equipment Redefined

SECTION V – DEFINITIONS, Definition 12. "Mobile Equipment", paragraph f.(1) does not apply to self-propelled vehicles of less than 1,000 pounds gross vehicle weight.

8. Personal Injury – Broad Form

a. SECTION I – COVERAGES, COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY, Paragraph 2. Exclusions, subparagraph e. is deleted.

b. SECTION V – DEFINITIONS, Definition 14, "Personal and advertising injury" subparagraph b. is replaced by the following:

b. Malicious prosecution or abuse of process.

c. The following is added to **SECTION V – DEFINITIONS**, Definition 14. "Personal and advertising injury":

"Discrimination" (unless insurance thereof is prohibited by law) that results in injury to the feelings or reputation of a natural person, but only if such "discrimination" is:

(1) Not done intentionally by or at the direction of:

(a) The insured;

(b) Any officer of the corporation, director, stockholder, partner or member of the insured; and

(2) Not directly or indirectly related to an "employee", not to the employment, prospective employment or termination of any person or persons by an insured.

d. The following is added to **SECTION V – DEFINITIONS**:

"Discrimination" means the unlawful treatment of individuals based upon race, color, ethnic origin, gender, religion, age, or sexual preference. "Discrimination" does not

include the unlawful treatment of individuals based upon developmental, physical, cognitive, mental, sensory or emotional impairment or any combination of these.

e. This coverage does not apply if **COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY** is excluded either by the provisions of the Coverage Form or by endorsement.

9. Product Recall Expense

a. **SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Paragraph 2. Exclusions, subparagraph n. is replaced by the following:

n. Recall of Products, Work or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it, but this exclusion does not apply to "product recall expenses" that you incur for the "covered recall" of "your product".

However, this exception to the exclusion does not apply to "product recall expenses" resulting solely from:

- (4) Failure of any products to accomplish their intended purpose;
- (5) Breach of warranties of fitness, quality, durability or performance;
- (6) Loss of customer approval, or any cost incurred to regain customer approval;
- (7) Redistribution or replacement of "your product" which has been recalled by like products or substitutes;
- (8) Caprice or whim of the insured;
- (9) A condition likely to cause loss of which any insured knew or had reason to know at the inception of this insurance;

- (10) Asbestos, including loss, damage or clean up resulting from asbestos or asbestos containing materials;
- (11) Recall of "your products" that have no known or suspected defect solely because a known or suspected defect in another of "your products" has been found.
- b. The following is added to **SECTION II – WHO IS AN INSURED**, Paragraph 3.
COVERAGE A does not apply to "product recall expense" arising out of any withdrawal or recall that occurred before you acquired or formed the organization.
- c. For the purposes of this endorsement only, the following is added to **SECTION III – LIMITS OF INSURANCE**:

Product Recall Expense Limits of Insurance

 - a. The Limits of Insurance shown in the **SUMMARY OF COVERAGES** of this endorsement and rules stated below fix the most we will pay under this Product Recall Expense Coverage regardless of the number of:
 - (1) Insureds;
 - (2) "Covered Recalls" initiated; or
 - (3) Number of "your products" withdrawn.
 - b. The Product Recall Expense Aggregate Limit is the most we will reimburse you for the sum of all "product recall expenses" incurred for all "covered recalls" initiated during the policy period.
 - c. The Product Recall Expense Each Occurrence Limit is the most we will pay in connection with any one defect or deficiency.
 - d. All "product recall expenses" in connection with substantially the same general harmful condition will be deemed to arise out of the same defect or deficiency and considered one "occurrence".
 - e. Any amount reimbursed for "product recall expenses" in connection with any one "occurrence" will reduce the amount of the Product Recall Expense Aggregate Limit available for reimbursement of "product recall expenses" in connection with any other defect or deficiency.
 - f. If the Product Recall Expense Aggregate Limit has been reduced by reimbursement of "product recall

"expenses" to an amount that is less than the Product Recall Expense Each Occurrence Limit, the remaining Product Recall Expense Aggregate Limit is the most that will be available for reimbursement of "product recall expenses" in connection with any other defect or deficiency.

g. Product Recall Deductible

We will only pay for the amount of "product recall expenses" which are in excess of the \$500 Product Recall Deductible. The Product Recall Deductible applies separately to each "covered recall". The limits of insurance will not be reduced by the amount of this deductible.

We may, or will if required by law, pay all or any part of any deductible amount, if applicable. Upon notice of our payment of a deductible amount, you shall promptly reimburse us for the part of the deductible amount we paid.

The Product Recall Expense Limits of Insurance apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for the purposes of determining the Limits of Insurance.

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

You must take the following actions in the event of an actual or anticipated "covered recall" that may result in "product recall expense":

- (1) Give us prompt notice of any discovery or notification that "your product" must be withdrawn or recalled, including a description of "your product" and the reason for the withdrawal or recall; and
- (2) Cease any further release, shipment, consignment or any other method of distribution of like or similar products until it has been determined that all such products are free from defects that could be a cause of loss under this insurance.

- e. The following definitions are added to **SECTION V – DEFINITIONS**:

"Covered recall," means a recall made necessary because you or a government body has determined that a known or suspected defect, deficiency, inadequacy, or dangerous condition in "your product" has resulted or will result in "bodily injury" or "property damage".

"Product recall expense" means:

 - a. Necessary and reasonable expenses for:
 - (1) Communications, including radio or television announcements or printed advertisements including stationery, envelopes and postage;
 - (2) Shipping the recalled products from any purchaser, distributor or user to the place or places designated by you;
 - (3) Remuneration paid to your regular "employees" for necessary overtime;
 - (4) Hiring additional persons, other than your regular "employees";
 - (5) Expenses incurred by "employees" including transportation and accommodations;
 - (6) Expenses to rent additional warehouse or storage space;
 - (7) Disposal of "your product", but only to the extent that specific methods of destruction other than those employed for trash discarding or disposal are required to avoid "bodily injury" or "property damage" as a result of such disposal;
 - b. You incur exclusively for the purpose of recalling "your product"; and
 - b. Your lost profit resulting from such "covered recall".
- f. This Product Recall Expense Coverage does not apply:
 - (1) If the "products – completed operations hazard" is excluded from coverage under this Coverage Part including any endorsement thereto; or
 - (2) To "product recall expense" arising out of any of "your products" that are otherwise excluded from coverage under this Coverage Part including endorsements thereto.

10. Property Damage Legal Liability – Broad Form

- a. **SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, the last paragraph (after the exclusions) is replaced by the following:

Exclusions c. through n. do not apply to damage by fire, lightning, explosion, smoke or leakage from fire protective systems to premises while rented to you or temporarily occupied by you with the permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III – LIMITS OF INSURANCE**.
- b. **SECTION III – LIMITS OF INSURANCE**, Paragraph 6. is replaced by the following:

6. Subject to Paragraph 5. above, The Damage to Premises Rented to You Limit is the most we will pay under **COVERAGE A** for damages because of "property damage" to any one premises from fire, lightning, explosion, smoke and leakage from fire protective systems to premises, while rented to you or temporarily occupied by you with permission of the owner.

The Damage to Premises Rented to You Limit is the higher of:

 - a. \$1,000,000; or
 - b. The Damage to Premises Rented to You Limit shown in the Declarations.

This limit will apply to all damage caused by the same event, whether such damage results from fire, lightning, explosion, smoke, leakage from fire protective systems or any combination of any of these.
- c. **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 4. Other Insurance, subparagraph b. Excess Insurance, item (a)(ii) is replaced by the following:

(ii) That is fire, lightning, explosion, smoke or leakage from fire protective systems insurance for premises rented to you or temporarily occupied by you with permission of the owner; or
- d. **SECTION V – DEFINITIONS**, Definition 9. "Insured contract", Paragraph a. is replaced by the following:
 - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke or leakage from fire protective systems to

premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract".

e. This coverage does not apply if Damage to Premises Rented to You is excluded either by the provisions of the Coverage Part or by endorsement.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF LIQUOR LIABILITY EXCLUSION – EXCEPTION FOR SCHEDULED PREMISES OR ACTIVITIES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Description Of Premises Or Activities:
N/A

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following replaces Exclusion c. under Paragraph 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:

2. Exclusions

This insurance does not apply to:

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person, including causing or contributing to the intoxication of any person because alcoholic beverages were permitted to be brought on your premises, for consumption on your premises;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

This exclusion applies only if you:

- (1) Manufacture, sell or distribute alcoholic beverages;
- (2) Serve or furnish alcoholic beverages for a charge whether or not such activity:
 - (a) Requires a license;
 - (b) Is for the purpose of financial gain or livelihood;
- (3) Serve or furnish alcoholic beverages without a charge, if a license is required for such activity; or
- (4) Permit any person to bring any alcoholic beverages on your premises, for consumption on your premises.

However, this exclusion does not apply to "bodily injury" or "property damage" arising out of:

- (i) The selling, serving or furnishing of alcoholic beverages at the specified activity described in the Schedule; or
- (ii) Permitting any person to bring any alcoholic beverages on the premises described in the Schedule, for consumption on the premises described in the Schedule.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED

This endorsement modifies insurance provided under the following:

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

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

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

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

Endorsement Effective:	Countersigned By:
01/01/2023	
Named Insured: KITTELSON & ASSOCIATES	<i>Jeaninne Ryan</i> (Authorized Representative)

SCHEDULE

Name of Person(s) or Organization(s):
 BLANKET ADDITIONAL INSURED PER
 WRITTEN AGREEMENT, CONTRACT OR
 PERMIT

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

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

Additional Insured if Required by Contract

If you agree in a written contract, written agreement or written permit that a person or organization be added as an additional "insured" under this Coverage Part, such person or organization is an "insured"; but only to the extent that such person or organization qualifies as an "insured" under paragraph A.1.c. of this Section.

If you agree in a written contract, written agreement or written permit that a person or organization be added as an additional "insured" under this Coverage Part, the most we will pay on behalf of such additional "insured" is the lesser of:

- (1) The Limits of Insurance for liability coverage specified in the written contract, written agreement or written permit; or
- (2) The Limits of Insurance for Liability Coverage shown in the Declarations applicable to this Coverage Part.

Such amount shall be part of and not in addition to the Limits of Insurance shown in the Declarations applicable to this Coverage Part. Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined resulting from any one "accident" is the Limit of Insurance for Liability Coverage shown in the Declarations.

B. The following is added to SECTION IV – BUSINESS AUTO CONDITIONS, Paragraph B. General Conditions, subparagraph 5. Other Insurance:

Primary and Non-Contributory

If you agree in a written contract, written agreement or written permit that the insurance provided to a person or organization who qualifies as an additional "insured" under SECTION II – LIABILITY COVERAGE, Paragraph A.1. Who Is An Insured, subparagraph Additional Insured if Required by Contract is primary and non-contributory, the following applies:

The liability coverage provided by this Coverage Part is primary to any other insurance available to the additional "insured" as a Named Insured. We will not seek contribution from any other insurance available to the additional "insured" except:

- (1) For the sole negligence of the additional "insured"; or
- (2) For negligence arising out of the ownership, maintenance or use of any "auto" not owned by the additional "insured" or by you, unless that "auto" is a "trailer" connected to an "auto" owned by the additional "insured" or by you; or
- (3) When the additional "insured" is also an additional "insured" under another liability policy.

C. This endorsement will apply only if the "accident" occurs:

1. During the policy period;
2. Subsequent to the execution of the written contract or written agreement or the issuance of the written permit; and
3. Prior to the expiration of the period of time that the written contract, written agreement or written permit requires such insurance to be provided to the additional "insured".

D. Coverage provided to an additional "insured" will not be broader than coverage provided to any other "insured" under this Coverage Part.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BUSINESS AUTO COVERAGE
BROADENING ENDORSEMENT**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

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

1. CANCELLATION EXTENSION

Paragraph A. CANCELLATION 2. b. of the **COMMON POLICY CONDITIONS** is replaced with the following:

- b. 60 days before the effective date of cancellation if we cancel for any other reason.

- d. Any business entity for which you have a financial interest greater than 50% of the voting stock or otherwise have a controlling interest after the effective date of this policy or that is newly acquired or formed by you during the term of this policy.

SECTION I - COVERED AUTOS

2. EMPLOYEE HIRED "AUTOS"
Description Of Covered Auto
Designation Symbols; Symbol 8 is replaced by the following:

8 = Hired "Autos" Only - Only those "autos" you lease, hire, rent or borrow; including "autos" your employee hires at your direction, for the purpose of conducting your business. This does not include any "auto" you lease, hire, rent, or borrow from any of your "employees" or partners or members of their households.

The coverage provided by this provision is afforded until expiration or termination of this policy, whichever occurs earlier.

The coverage provided by this provision does not apply to any business entity described in d. above that qualifies as an insured under any other automobile liability policy issued to that business entity as a named insured or would have been an insured except for the exhaustion of the policy limits or the insolvency of the insurer.

SECTION II - LIABILITY COVERAGE

3. BROADENED NAMED INSURED

The following is added to the **SECTION II - LIABILITY COVERAGE**, Paragraph 1. Who Is An Insured provision:

The coverage provided by this provision does not apply to "bodily injury" nor "property damage" arising from an accident that occurred prior to your acquiring or forming the business entity described in d. above.

4. EMPLOYEES AS INSURED

The following is added to the **SECTION II - LIABILITY COVERAGE**, Paragraph 1. Who Is An Insured provision:

- e. Any employee of yours is an "insured" while using a covered "auto" you do not own, hire or borrow in your business or your personal affairs.

5. SUPPLEMENTARY PAYMENTS

The following amends **SECTION II - LIABILITY COVERAGE**, Paragraph 2. Coverage Extensions provision:

Paragraph (2) is replaced by the following:

- (2) Up to \$2500 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

Paragraph (4) is replaced by the following:

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

6. AMENDED FELLOW EMPLOYEE EXCLUSION

The following is added to the **SECTION II - LIABILITY COVERAGE**, B. Exclusions Paragraph 5. Fellow Employee exclusion:

This exclusion does not apply if the "bodily injury" arises from the use of a covered "auto" you own or hire. This coverage is excess over any other collectible insurance

SECTION III - PHYSICAL DAMAGE COVERAGE.

7. EXPENSE OF RETURNING A STOLEN "AUTO" and SIGN COVERAGE

The following is added to **SECTION III - PHYSICAL DAMAGE COVERAGE**, A.1. COVERAGE:

- d. **Expense Of Returning A Stolen "Auto"**

We will pay for the expense of returning a covered "auto" to you.

- e. **Sign Coverage**

We will pay for loss to signs, murals, paintings or graphics, as part of equipment, which are displayed on a covered "auto".

The most we will pay for "loss" in any one "accident" is the lesser of:

- 1. The actual cash value of the property as of the time of the "loss"; or
- 2. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or
- 3. \$2,000.

8. GLASS BREAKAGE DEDUCTIBLE

The following is added to **SECTION III - PHYSICAL DAMAGE COVERAGE** A. COVERAGE paragraph 3. Glass Breakage - Hitting a Bird or Animal - Falling Objects or Missiles:

Any deductible shown in the Declarations as applicable to the

covered "auto" will not apply to glass breakage if such glass is repaired, rather than replaced.

9. TRANSPORTATION EXPENSE

Paragraph 4. **Coverage Extension.** of **SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE** is replaced with the following:

4. Coverage Extension

We will pay up to \$50 per day to a maximum of \$1500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 24 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

10. HIRED AUTO PHYSICAL DAMAGE

The following is added to **SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE:**

5. Hired Auto Physical Damage

If hired "autos" are covered "autos" for Liability Coverage and if Physical Damage Coverage of Comprehensive, Specified Causes of Loss, or Collision is provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverage(s) provided is extended to "autos" you hire without a driver or your employee hires, without a driver, at your

direction, for the purpose of conducting your business, for a period of 30 days or less, of like kind and use as the "autos" you own, subject to the following:

The most we will pay for any one loss is the lesser of the following:

- a. \$50,000 per accident, or
- b. cash value, or
- c. the cost of repair,

minus the deductible equal to the lowest deductible applicable to any owned "auto" for that coverage. Any deductible shown in the Declarations does not apply to "loss" caused by fire or lightning. Subject to the limit and deductible stated above, we will provide coverage equal to the broadest coverage provided to any covered "auto" you own, that is applicable to the loss.

If the loss arises from an accident for which you are legally liable and the lessor incurs an actual financial loss from that accident, we will cover the lessor's actual financial loss of use of the hired "auto" for a period of up to seven consecutive days from the date of the accident, subject to a limit of \$1,000 per accident.

11. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE

The following is added to **SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE:**

6. Audio, Visual and Data Electronic Equipment Coverage

We will pay for "loss" to any electronic equipment that receives

or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound. This coverage applies only if the equipment is permanently installed in the covered "auto" at the time of the "loss" or the equipment is removable from a housing unit which is permanently installed in the covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto", including its antennas and other accessories. However, this does not include tapes, records or discs.

The exclusions that apply to **PHYSICAL DAMAGE COVERAGE**, except for the exclusion relating to Audio, Visual and Data Electronic Equipment, also apply to coverage provided herein. In addition, the following exclusions apply:

We will not pay, under this coverage, for either any electronic equipment or accessories used with such electronic equipment that is:

1. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or
2. Both:
 - a. An integral part of the same unit housing any sound reproducing equipment designed solely for the reproduction of sound if the sound reproducing equipment is permanently installed in the covered "auto", and

- b. Permanently installed in the opening of the dash or console normally used by the manufacturer for the installation of a radio.

With respect to coverage herein, the **LIMIT OF INSURANCE** provision of **PHYSICAL DAMAGE COVERAGE** is replaced by the following:

1. The most we will pay for all "loss" to audio, visual or data electronic equipment and any accessories used with this equipment as a result of any one "accident" is the lesser of
 - a. The actual cash value of the damaged or stolen property as of the time of the "loss"; or
 - b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or
 - c. \$500.
2. An adjustment for depreciation and physical condition will be made in determining actual cash value at the time of the "loss".
3. Deductibles applicable to **PHYSICAL DAMAGE COVERAGE**, do not apply to this Audio, Visual and Data Electronic Equipment Coverage.

If there is other coverage provided by this policy for audio, visual and data electronic equipment, the coverage provided herein is

excess. However, you may elect to apply the limit or any portion thereof of coverage provided herein to pay any deductible that is applicable under the provisions of the other coverage.

12. RENTAL REIMBURSEMENT and MATERIAL TRANSFER EXPENSE

The following is added to **SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE:**

7. Rental Reimbursement and Material Transfer Expense

This coverage provides only those Physical Damage Coverages where a premium is shown in the Declarations. It applies only to a covered "auto" described or designated to which the Physical Damage Coverages apply.

We will pay for auto rental expenses and the expenses, incurred by you because of "loss" to a covered "auto", to remove and transfer your materials and equipment from the covered "auto". Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto". No deductibles apply to this coverage.

We will pay only for those auto rental expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the following number of days:

1. The number of days reasonably required to repair or replace the

covered "auto". If "loss" is caused by theft, this number of days is added to the number of days it takes to locate the covered "auto" and transport it to a repair shop.

2. 60 days.

Our payment is limited to the lesser of the following amounts:

1. Necessary and actual expenses incurred, including loss of use.

2. \$3000.

This auto rental expense coverage does not apply while there are spare or reserve "autos" available to you for your operations.

If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided for under the **SECTION III - PHYSICAL DAMAGE COVERAGE, A. 4. Coverage Extension.**

13. AIRBAG COVERAGE

The following is added to **SECTION III - PHYSICAL DAMAGE COVERAGE, B. Exclusions, paragraph 3.**

The portion of this exclusion relating to mechanical or electrical breakdown does not apply to the accidental discharge of an airbag. This coverage is excess of other collectible insurance or warranty. No deductible applies to this Airbag Coverage.

14. AUTO LOAN PHYSICAL DAMAGE EXTENSION

The following is added to **SECTION III - PHYSICAL DAMAGE COVERAGE, C. Limit Of Insurance** provision:

When a "loss" results in a total loss to a covered auto you own for which a Loss Payee is designated in this policy, the most we will pay for "loss" in any one "accident" is the greater of:

1. The actual cash value of the damaged or stolen property as of the time of the "loss"; or
2. The outstanding balance of the initial loan, less any amounts for taxes, overdue payments, overdue payment charges, penalties, interest, any charges for early termination of the loan, costs for Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan, and carry-over balances from previous loans.

15. AUTO LEASE PHYSICAL DAMAGE EXTENSION

The following is added to **SECTION III - PHYSICAL DAMAGE COVERAGE, C. Limit Of Insurance** provision:

If, because of damage, destruction or theft of a covered "auto", which is a long-term leased "auto", the lease agreement between you and the lessor is terminated, "we" will pay the difference between the amount paid under paragraph C. **LIMIT OF INSURANCE 1. or 2.** and the amount due at the time of "loss" under the terms of the lease agreement applicable to the leased "auto" which you are required to pay: less any fees to dispose of the auto; any overdue payments; financial penalties

imposed under a lease for excessive use, abnormal wear and tear or high mileage; security deposits not refunded by the lessor; cost for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan; and carry over balances from previous leases.

This coverage applies only to the initial lease for the covered "auto" which has not previously been leased. This coverage is excess over all other collectible insurance.

SECTION IV - CONDITIONS

16. DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The following is added to **SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, 2. Duties In The Event Of Accident, Claim, Suit Or Loss**:

- d. Knowledge of any "accident", claim, "suit" or "loss" will be deemed knowledge by you when notice of such "accident", claim, "suit" or "loss" has been received by:
 - (1) You, if you are an individual;
 - (2) Any partner or insurance manager if you are a partnership; or
 - (3) An executive officer or insurance manager if you are a corporation.

17. BLANKET WAIVER OF SUBROGATION

Paragraph 5. **Transfer Of Rights Of Recovery Against Others To Us, SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions** is replaced by the following:

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

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, which have not been waived through the execution of an "insured contract", written agreement, or permit, prior to the "accident" or "loss" giving rise to the payment, those rights to recover damages from another are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after the "accident" or "loss" to impair them.

**18. UNINTENTIONAL FAILURE TO
DISCLOSE INFORMATION**

The following is added to **SECTION IV
BUSINESS AUTO CONDITIONS. B.
General Conditions**, paragraph 2.
**Concealment, Misrepresentation Or
Fraud:**

Your unintentional error in disclosing, or failure to disclose, any material fact existing after the effective date of this Coverage Form shall not prejudice your rights under this Coverage Form. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or nonrenewal.

**19. HIRED AUTO – WORLDWIDE
COVERAGE**

The following is added to **SECTION IV -
Business Auto Conditions, B. General
Conditions, paragraph 7. Policy Period,
Coverage Territory** provision:

- e. Outside the coverage territory described in a., b., c., and d. above for an "accident" or "loss" resulting from the use of a covered "auto" you hire, without a driver, or your employee hires without a driver, at your direction, for the purpose of conducting your business, for a period of 30 days or less, provided the suit is brought within The United States of America or its territories or possessions.

SECTION V - DEFINITIONS

20. MENTAL ANGUISH

Paragraph **C. "Bodily injury"**, **SECTION V -
DEFINITIONS** is replaced by the following:

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



SCHEDULE OF UNDERLYING POLICIES

Insured: KITTELSON & ASSOCIATES

Effective on and after 01/01/2023 12:01 A.M. Standard Time

This Schedule is part of Policy Number: UH2 D781281 04

CARRIER, POLICY NUMBER & PERIOD	TYPE OF POLICY	APPLICABLE LIMITS OR AMOUNT OF INSURANCE	
(a) Carrier: HANOVER INSURANCE COMPANY Policy Number: ZH2 D781280 04 Policy Period: 01/01/2023 to 01/01/2024	Commercial General Liability <input type="checkbox"/> Owned Autos <input type="checkbox"/> Non-owned & Hired Autos	\$1,000,000 \$1,000,000 \$1,000,000 \$2,000,000 Incl in Gen Agg	Occurrence/ Each Claim Personal Injury Advertising Injury General Aggregate Product/Completed Operations Aggregate
(a) Carrier: Hanover Insurance Company-Foreign Policy Number: ZH2 H867951 01 Policy Period: 01/01/2023 to 01/01/2024	Commercial General Liability <input type="checkbox"/> Owned Autos <input type="checkbox"/> Non-owned & Hired Autos	\$1,000,000 \$1,000,000 \$1,000,000 \$2,000,000 Incl in Gen Agg	Occurrence/ Each Claim Personal Injury Advertising Injury General Aggregate Product/Completed Operations Aggregate
(b) Carrier: ALLMERICA FINANCIAL BENEFITS Policy Number: AW2 D781287 05 Policy Period: 01/01/2023 to 01/01/2024	Comprehensive Automobile Liability including <input checked="" type="checkbox"/> Owned Autos <input checked="" type="checkbox"/> Non-Owned & Hired Autos	Bodily Injury and Property Damage Liability Combined: \$1,000,000 Bodily Injury \$ \$ Property Damage: \$	Each Accident Each Person Each Accident Each Accident
(b) Carrier: Hanover Insurance Company - Foreign Policy Number: ZH2 H867951 01 Policy Period: 01/01/2023 to 01/01/2024	Comprehensive Automobile Liability including <input checked="" type="checkbox"/> Owned Autos <input checked="" type="checkbox"/> Non-Owned & Hired Autos	Bodily Injury and Property Damage Liability Combined: \$1,000,000 Bodily Injury \$ \$ Property Damage: \$	Each Accident Each Person Each Accident Each Accident

An "X" marked in the box provided indicates these broadening or optional coverage are provided in the Underlying Insurance



<p>(c) Carrier: Policy Number: Policy Period:</p>	<p>Garage Liability <input type="checkbox"/> Dealers <input type="checkbox"/> Service</p>	Bodily Injury and Property Damage Liability Combined: Each Accident Garage Operations \$ \$ \$ Garage Operations \$ Other than Auto Only
		Auto Only
		Other than Auto Only
		Aggregate
		Other than Auto Only
<p>(d) Carrier: ALLMERICA FINANCIAL BENEFITS Policy Number: WM2 D781289 04 Policy Period: 01/01/2023 to 01/01/2024</p>	<p>Standard Workers' Compensation & Employers' Liability NEW YORK ONLY: The Umbrella Coverage for Workers' Compensation and Employers Liability is not applicable in situations where an employee is subject to the New York Workers' Compensation Law.</p>	Coverage B – Employers Liability Bodily Injury by Accident \$1,000,000 Each Accident Bodily Injury by Disease \$1,000,000 Each Employee \$1,000,000 Aggregate
		Bodily Injury by Accident \$1,000,000 Each Accident
		Bodily Injury by Disease \$1,000,000 Each Employee
		\$1,000,000 Aggregate
<p>(d) Carrier: Hanover Insurance Company - Foreign Policy Number: ZH2 H867951 01 Policy Period: 01/01/2023 to 01/01/2024</p>	<p>Standard Workers' Compensation & Employers' Liability NEW YORK ONLY: The Umbrella Coverage for Workers' Compensation and Employers Liability is not applicable in situations where an employee is subject to the New York Workers' Compensation Law.</p>	Coverage B – Employers Liability Bodily Injury by Accident \$1,000,000 Each Accident Bodily Injury by Disease \$1,000,000 Each Employee
		\$1,000,000 Aggregate
		Bodily Injury by Accident \$1,000,000 Each Accident
		Bodily Injury by Disease \$1,000,000 Each Employee
		\$1,000,000 Aggregate
<p>(e) Carrier: Policy Number: Policy Period:</p>	<p>Liquor Liability \$ \$ \$ \$</p>	Each Common Cause Other Aggregate Other
		\$
		\$
		\$
<p>(f) Carrier: Policy Number: Policy Period:</p>	<p>Professional Liability \$ \$ \$ \$ \$</p>	Each Occurrence Each Claim Other Aggregate Other
		\$
		\$
		\$
		\$
<p>(g) Carrier: Policy Number: Policy Period:</p>	<p>Directors & Officers Liability \$ \$ \$ \$ \$</p>	Each Occurrence Each Claim Other Aggregate Other
		\$
		\$
		\$
		\$



(h) Carrier: Policy Number: Policy Period:	Stop Gap Liability	Bodily Injury by Accident \$ Bodily Injury by Disease \$ \$	Each Accident Each Employee Aggregate
(i) Carrier: Policy Number: Policy Period:	Abuse and Molestation	\$ \$ \$ \$	Each Occurrence Each Claim Other Aggregate
(j) Carrier: Policy Number: Policy Period:	Foreign	\$ \$ \$ \$	Each Occurrence Each Claim Other Aggregate
(k) Carrier: HANOVER INSURANCE COMPANY Policy Number: ZH2 D781280 04 Policy Period: 01/01/2023 to 01/01/2024	Employee Benefits Liability	\$ \$1,000,000 \$ \$2,000,000	Each Occurrence Each Claim Other Aggregate
(k) Carrier: HANOVER INSURANCE COMPANY - Foreign Policy Number: ZH2 H867951 01 Policy Period: 01/01/2023 to 01/01/2024	Employee Benefits Liability	\$ \$1,000,000 \$ \$2,000,000	Each Occurrence Each Claim Other Aggregate
(l) Carrier: Policy Number: Policy Period:	Other	\$ \$ \$ \$	Each Occurrence Each Claim Other Aggregate

An "X" marked in the box provided indicates these broadening or optional coverage are provided in the Underlying Insurance

Countersigned By: Jeaninne Ryan
Authorized Representative of the Company

Date: 01/01/2023

HANOVER COMMERCIAL FOLLOW FORM EXCESS AND UMBRELLA POLICY

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

We will not pay sums or perform acts or services unless explicitly provided for in this policy.

Throughout this policy the words **you** and **your** refer to the Named Insured shown in the Declarations and any other person or organization qualifying as a Named Insured under this policy. The words **we**, **us** and **our** refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to the Definitions Section of this policy.

I. INSURING AGREEMENTS

1. Coverage A – Follow Form Excess Liability Insuring Agreement

- a. We will pay on behalf of the insured those sums in excess of the "underlying insurance" which the insured becomes legally obligated to pay as damages, provided:
 - (1) Such damages are covered by "underlying insurance";
 - (2) The event which triggers coverage on the "underlying insurance" takes place during the policy period of this insurance, and
 - (3) The applicable Limit of Insurance of the "underlying insurance" is exhausted by payment of judgments, settlements, related costs or expenses for damages also covered under this policy. We will not pay if the Limit of Insurance of "underlying insurance" is exhausted by payment for damages to which this insurance does not also apply.
- b. We will not pay damages that the "underlying insurance" does not pay for any reason other than exhaustion of limits of the "underlying insurance" by payment of judgments, settlements, related costs or expenses.
- c. The terms and conditions of the "underlying insurance" in effect at the inception of this policy apply unless they are inconsistent with the terms and conditions of this policy.
- d. The amount we will pay for damages is limited as described in section VI. LIMITS OF INSURANCE.

e. We have no obligation under this insurance with respect to any claim or "suit" settled without our consent.

f. This policy does not apply to any part of loss within the Limit of Insurance of "underlying insurance", or any related costs or expenses.

g. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under section II. DEFENSE AND SETTLEMENT and section V. SUPPLEMENTAL PAYMENTS.

2. Coverage B – Umbrella Liability Insuring Agreement

- a. We will pay on behalf of the insured those sums in excess of the "retained limit" shown in the Declarations which the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage", "personal injury" and "advertising injury" to which this coverage applies, provided:

(1) The:

- (a) "Bodily injury" or "property damage" is caused by an "occurrence"; or
- (b) "Personal injury" and "advertising injury" is caused by an offense arising out of your business;

Which took place within the coverage territory as described in section IV. COVERAGE TERRITORY;

- (2) The "bodily injury" or "property damage" occurs during the policy period, and the offense causing "personal injury" or "advertising injury" is first committed during our policy period; and

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WORKERS' COMPENSATION BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

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

SECTION I: WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY CHANGES

A. Part One – WORKERS' COMPENSATION INSURANCE, D. We Will Also Pay; and Part Two – EMPLOYERS' LIABILITY INSURANCE, E. We Will Also Pay is replaced by the following:

We Will Also Pay

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding, or suit we defend:

1. Reasonable expenses incurred at our request, including loss of earnings;
2. Premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of our liability under this insurance;
3. Litigation costs taxed against you;
4. Interest on a judgment as required by law until we offer the amount due under this insurance; and
5. Expenses we incur.

B. Part Three – OTHER STATES INSURANCE, A. How This Insurance Applies, paragraph 4. is replaced by the following:

4. If you have work on the effective date of this policy in any state not listed in Item 3.A. of the Information Page, coverage will not be afforded for that state unless we are notified within sixty days.

C. Part Six – CONDITIONS, C. Transfer of Your Rights and Duties is replaced by the following:

C. Transfer of Your Rights and Duties

Your rights or duties under this policy may not be transferred without our written consent. If you die and we receive notice within sixty days after your death, we will cover your legal representative as insured.

D. The following is added to Part Six – CONDITIONS, F. Liberalization:

If we adopt a change in this form that would broaden the coverage of this form without extra charge, the broader coverage will apply to this policy when the change becomes effective in your state.

SECTION II: VOLUNTARY COMPENSATION AND EMPLOYERS' LIABILITY COVERAGE

A. How This Insurance Applies

This insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death:

1. The bodily injury must be sustained by an employee included in the group of employees described in the Schedule;
2. The bodily injury must arise out of and in the course of employment necessary or incidental to work in a state listed in the Schedule;
3. The bodily injury must occur in the United States of America, its territories or possessions, or Canada, and may occur elsewhere if the employee is a United States or Canadian citizen temporarily away from those places;
4. Bodily injury by accident must occur during the policy period; or
5. Bodily injury by disease must be caused or aggravated by the conditions of the employee's employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.

B. We Will Pay

1. We will pay an amount equal to the benefits that would be required of you if you and your employees described in the Schedule were subject to the workers' compensation law shown in the Schedule. We will pay those amounts to the persons who would be entitled to them under the law.

2. We will pay the additional expenses of repatriating an employee to the United States of America as a result of bodily injury to the employee.

C. Exclusions

This insurance does not cover:

1. Any obligation imposed by a workers' compensation or occupational disease law, or any similar law; or
2. Bodily injury intentionally caused or aggravated by you.

D. Before We Pay

Before we pay benefits to the persons entitled to them, they must:

1. Release you and us, in writing, of all responsibility for the injury or death;
2. Transfer to us their right to recover from others who may be responsible for the injury or death; and
3. Cooperate with us and do everything necessary to enable us to enforce the right to recover from others.

If the persons entitled to the benefits of this insurance fail to do those things, our duty to pay ends at once. If they claim damages from you or from us for the injury or death, our duty to pay ends at once.

E. Recovery From Others

If we make a recovery from others, we will keep an amount equal to our expenses of recovery and the benefits we paid. We will pay the balance to the persons entitled to it. If the persons entitled to the benefits of this insurance make a recovery from others, they must reimburse us for the benefits we paid them.

F. Employers' Liability Insurance

Part Two – EMPLOYERS' LIABILITY INSURANCE applies to bodily injury covered by this endorsement as though the State of Employment shown in the Schedule were shown in Item 3.A. of the Information Page.

G. EMPLOYERS' LIABILITY STOP GAP COVERAGE

1. This coverage applies only in North Dakota, Ohio, Washington, and Wyoming.
2. **Part One – WORKERS' COMPENSATION INSURANCE** does not apply to work in states shown in Paragraph 1. above.
3. **Part Two – EMPLOYERS' LIABILITY INSURANCE** applies in the states shown in Paragraph 1. as though they were shown in Item 3.A. of the Information Page.

4. The following additional Exclusions are added to **Part Two – EMPLOYERS' LIABILITY, Section C. Exclusions:**

This insurance does not cover:

- a. Bodily injury intentionally caused or aggravated by you or, in Ohio, bodily injury resulting from an act which is determined to have been committed by you with the belief that the injury is substantially certain to occur;
- b. Bodily injury sustained by any member of the flying crew of any aircraft; or
- c. Any claim for bodily injury with respect to which you are deprived of common law defenses or are subject to penalty because of your failure to secure your obligations under the workers' compensation law or laws of a state shown in Paragraph A.

- H. Coverage provided under **SECTION II** of this endorsement does not apply in New Jersey or Wisconsin.

SECTION III – ADDITIONAL CONDITION

Unintentional Failure to Disclose Hazards

If you unintentionally fail to disclose all existing hazards at the inception date of your policy, we will not deny coverage under this policy because of such failure.

SECTION IV – COVERAGE TERRITORY

Schedule of Covered States

- A. This endorsement applies only in those states listed in item 3.A. of the Information Page on the effective date of the applicable state approval.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2% of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization

APPLIES AS BLANKET WAIVER
FOR THOSE HAVING A WRITTEN
CONTRACT WITH THE POLICY-
HOLDER REQUIRING WOS FOR
WC POLICYHOLDER EMPLOYEES.

Job Description

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 01/01/2023

Policy No. WM2D78128904

Insured KITTELSON & ASSOCIATES,

Insurance Company Hanover American Ins Co.

INC.

Countersigned By



TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

The premium for this endorsement is shown in the Schedule.

Schedule

1. Specific Waiver

Name of person or organization

Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations: ALL TEXAS OPERATIONS

3. Premium:

The premium charge for this endorsement shall be 2 percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium:

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

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

Endorsement Effective 01/01/2023

Policy No WM2D78128904

Insured Kittelson & Associates Inc.

Hanover American Ins Co.

Insurance Company

Countersigned by 

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

WC 00 03 13

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective on 01/01/2023 standard time, forms a part of

Policy No. WM2D78128904 of the Hanover American Ins Co.
(NAME OF INSURANCE COMPANY)

issued to Kittelson & Associates, Inc.



Authorized Representative

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.*

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

AK,AZ,DC,FL,ID,IL,MD,MA,MO,NY,NC,OR,PA,VA

THIS ENDORSEMENT APPLIES AS A BLANKET WAIVER

OF SUBROGATION FOR THOSE PARTIES HAVING A WRITTEN

CONTRACT WITH THE POLICYHOLDER REQUIRING A WAIVER

OF SUBROGATION FOR WORKERS COMPENSATION COVERAGE OF THE

POLICYHOLDERS EMPLOYEES.

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY
WC 00 01 06 A (Ed. 4-92)

**LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT
COVERAGE ENDORSEMENT**

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective on 01/01/2023 at 12:01 A.M. standard time, forms a part of
(Date) Hanover American Ins Co.
Policy No. WM2D78128904 of the (NAME OF INSURANCE COMPANY)
issued to Kittelson & Associates, Inc.



Authorized Representative

This endorsement applies only to work subject to the Longshore and Harbor Workers' Compensation Act in a state shown in the Schedule. The policy applies to that work as though that state were listed in Item 3.A. of the Information Page.

General Section C. Workers' Compensation Law is replaced by the following:

C. Workers' Compensation Law

Workers' Compensation Law means the workers' or workmen's compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page and the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950). It includes any amendments to those laws that are in effect during the policy period. It does not include any other federal worker's or workmen's compensation law, other federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

Part Two (Employers' Liability Insurance), C. Exclusions., exclusion 8., does not apply to work subject to the Longshore and Harbor Workers' Compensation Act.

This endorsement does not apply to work subject to the Defense Base Act, the Outer Continental Shelf Lands Act, or the Nonappropriated Fund Instrumentalities Act.

Schedule

State	Longshore and Harbor Workers' Compensation Act Coverage Percentage
NY	78.8%
VA	73.0%

The rates for classifications with code numbers not followed by the letter "F" are rates for work not ordinarily subject to the Longshore and Harbor Workers' Compensation Act. If this policy covers work under such classifications, and if the work is subject to the Longshore and Harbor Workers' Compensation Act, those non-F classification rates will be increased by the Longshore and Harbor Workers' Compensation Act Coverage Percentage shown in the Schedule.

NOTICE OF CANCELLATION TO DESIGNATED ENTITY(S)

(Including Nonpayment of Premium)

This endorsement modifies insurance provided under the following:

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

SCHEDULE

Name of Designated Entity	Mailing Address or Email Address	Number Days Notice
ANY PERSON OR ORGANIZATION TO WHOM (SEE FORM 331-0230 FOR COMPLETE NAME)	THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST FROM YOU TO US	30

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

If we cancel this policy for any reason, including nonpayment of premium, we will give written notice of such cancellation to the Designated Entity(s) shown in the Schedule. Such notice may be delivered or sent by any means of our choosing. The notice to the Designated Entity(s) will state the effective date of cancellation.

Unless otherwise noted in the Schedule above, such notice will be provided to the Designated Entity(s) no more than the number of days in advance of the effective date of cancellation that we are required to provide to the Named Insured for such cancellation. If the reason for cancellation is nonpayment of premium, however, we will provide ten days notice.

Such notice of cancellation is solely for the purpose of informing the Designated Entity(s) of the effective date of cancellation and does not grant, alter, or extend any rights or obligations under this policy.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

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

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

Endorsement Effective 01/01/2023 Policy No. WM2D78128904

Insured Kittelson & Associates, Inc. Insurance Company Hanover American Ins Co.

Countersigned
By



Page 1 of 1

MANUSCRIPT FORM

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
IT IS AGREED THAT THE COMPLETE NAME FOR THE NOTICE OF CANCELLATION TO THE
DESIGNATED ENTITY(S) FORM 331-0341(09/11) IS AS FOLLOWS:

DESIGNATED ENTITY:

ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN
CONTRACT THAT NOTICE OF CANCELLATION OR NON-RENEWAL OF THIS POLICY WILL
BE GIVEN, BUT ONLY IF:

1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING
THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE
FIRST INSURED RECEIVES FROM US OF CANCELLATION OR NON-RENEWAL OF
THIS POLICY; AND
2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE
BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS SCHEDULE.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitation of the policy other than as above states.

(Completion of the following, including countersignature, is required to make this endorsement effective only when it is issued subsequent to preparation of the Policy.)

Effective 01/01/2023 this endorsement forms a part of Policy No. WM2D78128904

Issued to Kittelson & Associates Inc

By Hanover American Ins Co.

Date of Issue

Countersigned by



Janet A. Hyn
Authorized Representative of the Company

331-0230 1003

Page 1 of 1

NOTICE OF CANCELLATION TO DESIGNATED ENTITY(S)

(Including Nonpayment of Premium)

This endorsement modifies insurance provided under the following:

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

SCHEDULE

Name of Designated Entity	Mailing Address or Email Address	Number Days Notice
ANY PERSON OR ORGANIZATION TO WHOM (SEE FORM 331-0230 FOR COMPLETE NAME)	THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST FROM YOU TO US	60

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

If we cancel this policy for any reason, including nonpayment of premium, we will give written notice of such cancellation to the Designated Entity(s) shown in the Schedule. Such notice may be delivered or sent by any means of our choosing. The notice to the Designated Entity(s) will state the effective date of cancellation.

Unless otherwise noted in the Schedule above, such notice will be provided to the Designated Entity(s) no more than the number of days in advance of the effective date of cancellation that we are required to provide to the Named Insured for such cancellation. If the reason for cancellation is nonpayment of premium, however, we will provide ten days notice.

Such notice of cancellation is solely for the purpose of informing the Designated Entity(s) of the effective date of cancellation and does not grant, alter, or extend any rights or obligations under this policy.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

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

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

Endorsement Effective 01/01/2023 Policy No. WM2D78128904

Insured Kittelson & Associates, Inc. Insurance Company Hanover American Ins Co.

Countersigned
By _____



Page 1 of 1

MANUSCRIPT FORM

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
IT IS AGREED THAT THE COMPLETE NAME FOR THE NOTICE OF CANCELLATION TO THE
DESIGNATED ENTITY(S) FORM 331-0341(09/11) IS AS FOLLOWS:

DESIGNATED ENTITY:

ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN
CONTRACT THAT NOTICE OF CANCELLATION OR NON-RENEWAL OF THIS POLICY WILL
BE GIVEN, BUY ONLY IF:

1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING
THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE
FIRST INSURED RECEIVES FROM US OF CANCELLATION OR NON-RENEWAL OF
THIS POLICY; AND
2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE
BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS SCHEDULE.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitation of the policy other than as above states.

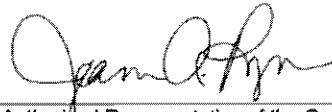
(Completion of the following, including countersignature, is required to make this endorsement effective only when it is issued subsequent to preparation of the Policy.)

Effective 01/01/2023 this endorsement forms a part of Policy No. WM2D78128904

Issued to Kittelson & Associates Inc

By Hanover American Ins Co.

Date of Issue _____ Countersigned by _____
Authorized Representative of the Company



331-0230 1003

Page 1 of 1

**PROFESSIONAL, ENVIRONMENTAL AND NETWORK SECURITY LIABILITY
POLICY –
ARCHITECTS, CONSULTANTS AND ENGINEERS**

THIS IS A "CLAIMS-MADE AND REPORTED" POLICY. THIS POLICY REQUIRES THAT A CLAIM BE MADE AGAINST THE INSURED DURING A POLICY YEAR AND REPORTED TO THE COMPANY, IN WRITING, DURING THAT POLICY YEAR OR AUTOMATIC EXTENDED REPORTING PERIOD.

CERTAIN STATES MANDATE SPECIFIC WARNINGS, EXCEPTIONS OR CONDITIONS MODIFYING THE TERMS AND CONDITIONS OF THIS POLICY. PLEASE READ THIS POLICY CAREFULLY, INCLUDING THE DECLARATIONS AND ALL ENDORSEMENTS.

THIS POLICY CONTAINS PROVISIONS THAT LIMIT THE AMOUNT OF CLAIM EXPENSES THE COMPANY IS RESPONSIBLE TO PAY IN CONNECTION WITH CLAIMS. CLAIM EXPENSES SHALL BE SUBJECT TO ANY APPLICABLE DEDUCTIBLE AMOUNT. THE PAYMENT OF CLAIM EXPENSES WILL REDUCE THE LIMITS OF LIABILITY STATED IN ITEM 3. OF THE DECLARATIONS.

In consideration of the payment of the Policy Premium stated in Item 5. of the Declarations, and in reliance upon the statements contained in the Application and any other supplemental materials and information submitted to the Company with respect to this Policy, and subject to all the terms and conditions of this Policy, the Company agrees with the NAMED INSURED as follows:

I. INSURING AGREEMENTS

A. Professional Liability

The Company agrees to pay on behalf of the INSURED all sums in excess of the Deductible, subject to the Policy Limits of Liability, that the INSURED becomes legally obligated to pay as DAMAGES and/or CLAIM EXPENSES as a result of any CLAIM(S) first made against the INSURED during a POLICY YEAR and first reported to the Company, in writing, during that POLICY YEAR or within sixty (60) days after the end of that POLICY YEAR, provided that:

1. The CLAIM(S) arises out of a WRONGFUL ACT;
2. Such WRONGFUL ACT was committed or alleged to have been committed on or after the applicable Retroactive Date(s) stated in Item 6. of the Declarations; and
3. Prior to the ANNIVERSARY DATE stated in Item 7. of the Declarations, none of the INSURED'S directors, officers, principals, partners or insurance managers knew or should have known that such WRONGFUL ACT might give rise to a CLAIM(S).

B. Contractors Pollution Legal Liability

The Company agrees to pay on behalf of the INSURED all sums in excess of the Deductible, subject to the Policy Limits of Liability, that the INSURED becomes legally obligated to pay as DAMAGES and/or CLAIM EXPENSES as a result of any CLAIM(S) first made against the INSURED during a POLICY YEAR and first reported to the Company, in writing, during that POLICY YEAR or within sixty (60) days after the end of that POLICY YEAR, provided that:

1. The CLAIM(S) is for POLLUTION CONDITIONS arising out of the performance of CONTRACTING SERVICES rendered by or on behalf of the INSURED;
2. The CONTRACTING SERVICES out of which the POLLUTION CONDITIONS arise were performed on or after to the applicable Retroactive Date(s) stated in Item 6. of the Declarations; and

2. The specific nature and extent of the injury or damage that has been sustained; and
3. How the INSURED first became aware of such CIRCUMSTANCE(S),

then any CLAIM(S) that may subsequently be made against the INSURED arising out of such reported CIRCUMSTANCE(S) shall be deemed to have been made on the date first written notice of the CIRCUMSTANCE(S) was received by the Company. This right conferred upon the INSURED in this Paragraph shall terminate at the end of the POLICY PERIOD and shall not exist during the Automatic Extended Reporting Period or Optional Extended Reporting Period.

XI. OTHER CONDITIONS

A. Cancellation

This Policy may be canceled by the NAMED INSURED by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. This Policy may be canceled by the Company by mailing to the NAMED INSURED, at the address stated in Item 1. of the Declarations, written notice stating when, not less than thirty (30) days thereafter (or ten (10) days thereafter for non-payment of premium), such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the POLICY PERIOD. Delivery of such written notice either by the NAMED INSURED or by the Company shall be equivalent to mailing.

If this Policy is canceled, earned premium shall be computed in accordance with the Company's guidelines with respect to cancellation. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

B. Action Against The Company

No action may be brought against the Company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this Policy, nor until the amount of the INSURED'S obligation to pay shall have been finally determined either by judgment against the INSURED in a contested proceeding after final judgment has been rendered and any appeal decided, or by written agreement of the INSURED, the claimant and the Company. No person or organization shall have any right under this Policy to join the Company as a party to any action against the INSURED to determine the INSURED'S liability, nor shall the INSURED or the INSURED'S legal representative join the Company in such action. Bankruptcy or insolvency of the INSURED or the INSURED'S estate shall not relieve the Company of any of its obligations hereunder.

C. Assignment

This Policy may not be assigned or transferred without written consent of the Company.

D. Subrogation

In the event of any payment under this Policy, the Company shall be subrogated to all the INSURED'S rights of recovery therefor against any person or organization, and the INSURED shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The INSURED shall do nothing after a CLAIM(S) to prejudice such rights.

However, it is agreed that the Company waives its rights of subrogation under this Policy against clients of the INSURED as respects any CLAIM(S) arising from PROFESSIONAL SERVICES, or CONTRACTING SERVICES under the client's contract requiring waiver of subrogation, but only to the extent required by written contract.

This endorsement, effective 12:01 a.m., 01/01/2023 forms a part of
Policy No. DPR5006540
Issued to Kittelson & Associates, Inc.
by XL Specialty Insurance Company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TECHNOLOGY SERVICES COVERAGE

This endorsement modifies insurance provided under the following:

PROFESSIONAL, ENVIRONMENTAL AND NETWORK SECURITY LIABILITY POLICY – ARCHITECTS, CONSULTANTS AND ENGINEERS

It is agreed that Section III. DEFINITIONS, Paragraph Y. PROFESSIONAL SERVICES, is amended to include the following:

The performance of TECHNOLOGY SERVICES for a specific client in conjunction with the INSURED'S practice of architecture, engineering, land surveying, landscape architecture, interior design, construction management, or environmental consulting.

With respect to the coverage provided by this endorsement, Section III. DEFINITIONS, is amended to include the following definition:

TECHNOLOGY SERVICES means:

1. Design and development of computer software programs, applications or systems;
2. Database design or database management, data warehousing, data and application hosting;
3. Website design or website programming;
4. Maintenance of computer software programs, applications or systems designed or developed by the INSURED; and
5. Hosting, management, or maintenance of websites designed or programmed by the INSURED.

With respect to the coverage provided by this endorsement, SECTION III. DEFINITIONS, Paragraph J. DAMAGES, is amended to include the following:

DAMAGES does not include any costs or expenses incurred by the INSURED to recall, upgrade, replace, repair, correct, complete or re-perform any TECHNOLOGY SERVICES.

This endorsement, effective 12:01 a.m., 01/01/2023 forms a part of
Policy No. DPR5006540
Issued to Kittelson & Associates, Inc.
by XL Specialty Insurance Company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLICY CANCELLATION – NOTICE TO DESIGNATED ENTITIES

This endorsement modifies insurance provided under the following:

PROFESSIONAL, ENVIRONMENTAL AND NETWORK SECURITY LIABILITY POLICY – ARCHITECTS,
CONSULTANTS AND ENGINEERS

Section XI. OTHER CONDITIONS, Paragraph A. Cancellation is amended by the addition of the following:

In the event that the Company cancels this Policy for any statutorily permitted reason other than non-payment of premium, the Company agrees to provide thirty (30) days' notice of cancellation of this Policy to any entity with whom the NAMED INSURED agreed in a written contract or agreement would be provided with notice of cancellation of this Policy, provided that:

1. The Company receives, at least fifteen (15) days prior to the date of cancellation, a written request from the NAMED INSURED to provide notice of cancellation to entities designated by the NAMED INSURED to receive such notice and;
2. The written request includes the name and address of each person or entity designated by the NAMED INSURED to receive such notice.

This endorsement does not apply to non-renewal of the Policy, cancellation at the INSURED'S request, or to cancellation of the Policy for non-payment of premium to the Company or to a premium finance company authorized to cancel the Policy. Furthermore, nothing contained in this endorsement shall be construed to provide any rights under the Policy to the entities receiving notice of cancellation pursuant to this endorsement, nor shall this endorsement amend or alter the effective date of cancellation stated in the cancellation notice issued to the NAMED INSURED.

All other terms and conditions of the Policy remain unchanged.

LLD 452 1116

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
3/2/2023

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

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

PRODUCER

Lyons Insurance Agency, Inc.
501 Carr Road, Suite 301
Wilmington, DE 19809

CONTACT James Watson, AINS

NAME: _____
PHONE: _____
(A/C, No, Ext): (302) 472-2909
E-MAIL: _____
ADDRESS: jwatson@lyonsinsurance.com

FAX
(A/C, No): _____

INSURED

KCI Technologies, Inc.
6500 North Andrews Avenue
Fort Lauderdale, FL 33309

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: National Union Fire Insurance Company of Pittsburgh, PA 19445

INSURER B: Great American Insurance Co. 16691

INSURER C: New Hampshire Insurance Company 23841

INSURER D: _____

INSURER E: _____

INSURER F: _____

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X X 522-24-13		4/1/2022	4/1/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (EA Occurrence) \$ 500,000 MED EXP (Any one person) \$ 25,000 PERSONAL & ADV. INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG. \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC					
	OTHER:					
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X X 448-95-82		4/1/2022	4/1/2023	COMBINED SINGLE LIMIT (EA accident) \$ 2,000,000 BODILY INJURY (Per person) \$ _____ BODILY INJURY (Per accident) \$ _____ PROPERTY DAMAGE (Per accident) \$ _____ \$ _____
B	X UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB CLAIMS-MADE <input checked="" type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	X X TUU 0-20-29-25-11		4/1/2022	4/1/2023	EACH OCCURRENCE \$ 15,000,000 AGGREGATE \$ 15,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> N N/A	X WC 012-01-6190		4/1/2022	4/1/2023	X PER STATUTE 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

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: General Engineering Services of the Named Insured

City of Key West is an Additional Insured under (General, Automobile & Umbrella Liability), on a Primary/Non-Contributory basis where required by written contract. Waiver of Subrogation is granted to Additional Insureds under (General, Automobile & Umbrella Liability and Workers Compensation) where required by written contract & allowable by state law. If coverage is cancelled by the company, notice of cancellation will be provided least 30 days in advance, subject to state specific statutes. Jones Act and USL&H coverages are applicable as respects to the Worker's Compensation policy.

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT COVERAGE ENDORSEMENT

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2022 forms a part of Policy No. WC 012-01-6190

Issued to KCI TECHNOLOGIES, INC

By NEW HAMPSHIRE INSURANCE COMPANY

This endorsement applies only to work subject to the Longshore and Harbor Workers' Compensation Act in a state shown in the Schedule. The policy applies to that work as though that state were listed in Item 3.A. of the Information Page.

General Section C. **Workers' Compensation Law** is replaced by the following:

C. Workers' Compensation Law

Workers' Compensation Law means the workers or workmen's compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page and the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950). It includes any amendments to those laws that are in effect during the policy period. It does not include any other federal workers or workmen's compensation law, other federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

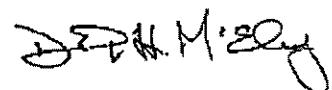
Part Two (Employers Liability Insurance), C. Exclusions exclusion 8, does not apply to work subject to the Longshore and Harbor Workers' Compensation Act.

This endorsement does not apply to work subject to the Defense Base Act, the Outer Continental Shelf Lands Act, or the Nonappropriated Fund Instrumentalities Act.

Schedule

<u>State</u>	<u>Longshore and Harbor Workers' Compensation Act Coverage Percentage</u>
Alabama	31.00 %
Arizona	58.00 %
Colorado	84.00 %
Connecticut	50.00 %
District of Columbia	25.00 %
Delaware	110.36 %
Florida	58.00 %
Georgia	50.00 %
Indiana	84.00 %
Kansas	110.00 %
Kentucky	50.00 %
Louisiana	23.00 %
Maryland	50.00 %
Maine	32.00 %
Michigan	67.00 %
Minnesota	47.00 %
Missouri	84.00 %
North Carolina	58.00 %

CONTINUED NEXT PAGE



WC 00 01 06A
(Ed. 4/92)

Countersigned by _____

Authorized Representative

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT COVERAGE ENDORSEMENT

This endorsement, effective 12:01 AM 04/01/2022

forms a part of Policy No. WC 012-01-6190

Issued to **KCI TECHNOLOGIES, INC**

By **NEW HAMPSHIRE INSURANCE COMPANY**

Schedule (continued)

<u>State</u>	<u>Longshore and Harbor Workers' Compensation Act Coverage Percentage</u>
North Dakota	0.00 %
New Hampshire	46.00 %
New Jersey	50.00 %
Nevada	31.00 %
New York	75.10 %
Ohio	0.00 %
Oregon	86.00 %
Pennsylvania	73.00 %
South Carolina	25.00 %
South Dakota	50.00 %
Tennessee	110.00 %
Texas	110.00 %
Utah	84.00 %
Virginia	32.00 %
Vermont	32.00 %
Washington	0.00 %
Wisconsin	60.00 %
West Virginia	110.00 %
Wyoming	108.00 %

The rates for classifications with code numbers not followed by the letter "F" are rates for work not ordinarily subject to the Longshore and Harbor Workers' Compensation Act. If this policy covers work under such classifications, and if the work is subject to the Longshore and Harbor Workers' Compensation Act, those non-F classification rates will be increased by the Longshore and Harbor Workers' Compensation Act Coverage Percentage shown in the Schedule.

ENDORSEMENT

This endorsement, effective 12:01 A.M. 03/02/2023 forms a part of policy No. GL 522-24-13 issued to KCI Technologies, Inc. by National Union Fire Insurance Company of Pittsburgh, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED- OWNERS, LESSEES, OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SCHEDULE

NAME OF PERSON OR ORGANIZATION:

City of Key West

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

A. SECTION II - WHO IS AN INSURED is amended to include as an insured;

The person or organization shown in the schedule, but only with respect to liability arising out of your ongoing operations performed for that additional insured.

B. With respect to the insurance afforded to these additional insureds, SECTION I - COVERAGES, COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. - Exclusions, is amended to include the following additional exclusion;

This insurance does not apply to "bodily injury" or "property damage" occurring after:

- (1) all work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or,
- (2) that portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

All other terms and conditions remain unchanged.

97838 (4/08)



Authorized Representative or Countersignature
(in States Where Applicable)

ENDORSEMENT

This endorsement, effective 12:01 A.M. 03/02/2023 forms a part of
policy No. GL 522-24-13 issued to KCI Technologies, Inc.
by National Union Fire Insurance Company of Pittsburgh, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED- OWNERS, LESSEES, OR CONTRACTORS –
COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SCHEDULE

NAME OF ADDITIONAL INSURED PERSON OR ORGANIZATION:

City of Key West

LOCATION AND DESCRIPTION OF COMPLETED OPERATIONS:

1300 White Street
Key West, FL 33040

ADDITIONAL PREMIUM: INCLUDED

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

SECTION II - WHO IS AN INSURED is amended to include as an insured:

The person or organization shown in the Schedule, but only with respect to liability arising out of "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

All other terms and conditions remain unchanged.

97837 (4/08)



Authorized Representative or Countersignature
(in States Where Applicable)

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
ELECTRONIC DATA LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

SCHEDULE

Name Of Person(s) Or Organization(s):

PURSUANT TO APPLICABLE WRITTEN CONTRACT OR AGREEMENT YOU ENTER INTO.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. Transfer Of
Rights Of Recovery Against Others To Us of
Section IV – Conditions:

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

ENDORSEMENT

This endorsement, effective 12:01 A.M. April 01 forms a part of

policy No. GL 522-24-13 issued to KCI, ET AL

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - WHERE REQUIRED UNDER CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SECTION II - WHO IS AN INSURED, is amended to include as an additional insured:

Any person or organization to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of your operations or premises owned by or rented to you.

However, the insurance provided will not exceed the lesser of:

- The coverage and/or limits of this policy, or
- The coverage and/or limits required by said contract or agreement.



Authorized Representative or
Countersignature (in States Where
Applicable)

ENDORSEMENT #

This endorsement, effective 12:01 A.M. April 01 forms a part of

Policy No. GL 522-24-13 issued to KCI ET AL

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL
TO ENTITIES OTHER THAN THE FIRST NAMED INSURED**

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;
2. the **First Named Insured** is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and
3. the **Insurer** received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within 30 days after the **First Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. **First Named Insured** means the Named Insured shown on the Declarations Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.



J.R. B.
Authorized Representative

ENDORSEMENT

This endorsement, effective 12:01A.M. April 01 forms a part of

policy No. CA 448-95-82

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INSURANCE PRIMARY AS TO CERTAIN ADDITIONAL INSUREDS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, B., General Conditions, 5., Other Insurance, c., is amended by the addition of the following sentence:

The insurance afforded under this policy to an additional insured will apply as primary insurance for such additional insured where so required under an agreement executed prior to the date of accident. We will not ask any insurer that has issued other insurance to such additional insured to contribute to the settlement of loss arising out of such accident.

All other terms and conditions remain unchanged.



Authorized Representative or
Countersignature (in States Where
Applicable)

ENDORSEMENT

This endorsement, effective 12:01 A.M. April 01 forms a part of policy No. CA 448-95-82 issued to KCI Technologies, Inc. by National Union Fire Insurance Company of Pittsburgh, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - WHERE REQUIRED UNDER CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SCHEDULE

ADDITIONAL INSURED:

ANY PERSON OR ORGANIZATION FOR WHOM YOU ARE CONTRACTUALLY BOUND TO PROVIDE ADDITIONAL INSURED STATUS BUT ONLY TO THE EXTENT OF SUCH PERSON OR ORGANIZATIONS LIABILITY ARISING OUT OF THE USE OF A COVERED AUTO.

I. SECTION II - LIABILITY COVERAGE, A. Coverage, 1. - Who Is Insured, is amended to add:

d. Any person or organization, shown in the schedule above, to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of use of a covered "auto". However, the insurance provided will not exceed the lesser of:

- (1) The coverage and/or limits of this policy, or
- (2) The coverage and/or limits required by said contract or agreement.

87950 (10/05)



A handwritten signature in black ink, appearing to read "Joseph A. Dahl".

AUTHORIZED REPRESENTATIVE

ENDORSEMENT

This endorsement, effective 12:01 A.M. April 01 forms a part of
policy No. CA 448-95-82 issued to **KCI Technologies, Inc.**
by **National Union Fire Insurance Company of Pittsburgh, PA**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, A. - Loss Conditions, 5. - Transfer of Rights of Recovery Against Others to Us, is amended to add:

However, we will waive any right of recover we have against any person or organization with whom you have entered into a contract or agreement because of payments we make under this Coverage Form arising out of an "accident" or "loss" if:

- (1) The "accident" or "loss" is due to operations undertaken in accordance with the contract existing between you and such person or organization; and
- (2) The contract or agreement was entered into prior to any "accident" or "loss".

No waiver of the right of recovery will directly or indirectly apply to your employees or employees of the person or organization, and we reserve our rights or lien to be reimbursed from any recovery funds obtained by any injured employee.

62897 (6/95)



A handwritten signature in black ink, appearing to read "J. R. Dahl".

AUTHORIZED REPRESENTATIVE

ENDORSEMENT #

This endorsement, effective 12:01 A.M. April 01 forms a part of

Policy No. CA 448-95-82 issued to KCI ET AL

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL
TO ENTITIES OTHER THAN THE FIRST NAMED INSURED**

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;
2. the **First Named Insured** is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and
3. the **Insurer** received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within 30 days after the **First Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. **First Named Insured** means the Named Insured shown on the Declarations Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.



H.R. B.
Authorized Representative

ENDORSEMENT

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM April 01 forms a part of Policy No. **WC 012-01-6190**

Issued to **KCI Technologies, Inc.**

By **New Hampshire Insurance Company**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

Any person or organization to whom you become obligated to waive your rights of recovery against, under any contract or agreement you enter into prior to the occurrence of loss.

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, North Dakota, Ohio, Tennessee, Texas, Utah, or Washington.

WC 00 03 13 (4/84)


AUTHORIZED REPRESENTATIVE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM April 01 forms a part of Policy No. WC 012-01-6190

Issued to **KCI TECHNOLOGIES, INC**

By **NEW HAMPSHIRE INSURANCE COMPANY**

**LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL
TO ENTITIES OTHER THAN THE NAMED INSURED
(WORKERS' COMPENSATION ONLY)**

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;
2. the **Named Insured** or, if applicable, any other employers named in Item 1 of the Information Page is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and the **Named Insured** has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and
3. the **Insurer** received this information after the **Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within 30 days after the **Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following definitions apply to this endorsement:

1. **Named Insured** means the insured first named employer in Item 1 of the Information Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Information Page of this policy.

All other terms, conditions and exclusions shall remain the same.



AUTHORIZED REPRESENTATIVE

GENERAL ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US
=====

IT IS AGREED THAT SECTION IV. - CONDITIONS ITEM M. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US IS DELETED AND REPLACED WITH THE FOLLOWING:

M. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

IF ANY INSURED HAS RIGHTS TO RECOVER ALL OR PART OF ANY PAYMENT WE HAVE MADE UNDER THIS POLICY, THOSE RIGHTS ARE TRANSFERRED TO US. THE INSURED MUST DO NOTHING AFTER LOSS TO IMPAIR THOSE RIGHTS AND MUST HELP US ENFORCE THEM.

ANY RECOVERIES WILL BE APPLIED AS FOLLOWS:

1. ANY INTEREST, INCLUDING THE INSURED, THAT HAVE BEEN PAID AN AMOUNT IN EXCESS OF OUR PAYMENT UNDER THIS POLICY WILL BE REIMBURSED FIRST;
2. WE THEN WILL BE REIMBURSED TO THE AMOUNT WE HAVE PAID; AND
3. LASTLY, ANY INTERESTS, INCLUDING THE "INSURED," OVER WHICH OUR INSURANCE IS EXCESS, ARE ENTITLED TO CLAIM THE RESIDUE.

EXPENSES INCURRED IN THE EXERCISE OF RIGHTS OF RECOVERY WILL BE APPORTIONED BETWEEN THE INTERESTS, INCLUDING THE INSURED, IN THE RATIO OF THEIR RESPECTIVE RECOVERIES AS FINALLY SETTLED.

IN CONSIDERATION FOR THE PREMIUM PAID FOR THIS ENDORSEMENT, THIS POLICY WAIVES ANY RIGHT OF RECOVERY WE MAY HAVE AGAINST THE PERSON OR ORGANIZATION SHOWN BELOW BECAUSE OF PAYMENTS WE MAKE CAUSED BY ANY LIABILITY TO WHICH THIS POLICY APPLIES PROVIDED THAT THE INSURED WAIVED SUCH RIGHT AS PART OF A WRITTEN CONTRACT PRIOR TO LOSS, AND THEN ONLY TO THE EXTENT THAT SUCH INSURANCE IS PROVIDED BY A POLICY LISTED IN THE SCHEDULE OF UNDERLYING INSURANCE, AND FOR NO BROADER COVERAGE THAN IS PROVIDED BY SUCH POLICY, SUBJECT TO THE TERMS, CONDITIONS AND LIMITATIONS OF THIS POLICY.

THIS WAIVER ONLY APPLIES TO A PERSON OR ORGANIZATION FOR WHOM OR WHICH YOU ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT TO PROVIDE A WAIVER FOR RIGHTS OF RECOVERY AGAINST SUCH PERSON OR ORGANIZATION, SUBJECT TO THE CONDITIONS SET FORTH IN THIS ENDORSEMENT.

THIS ENDORSEMENT DOES NOT CHANGE ANY OTHER PROVISION OF THE POLICY.

GENERAL ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT - OTHER INSURANCE
SCHEDULED PERSONS OR ORGANIZATIONS FOR WHOM YOU HAVE
AGREED IN A WRITTEN CONTRACT TO PROVIDE INSURANCE
=====

IN CONSIDERATION FOR THE PREMIUM PAID FOR THIS ENDORSEMENT, THE FOLLOWING IS
ADDED TO PARAGRAPH J. - OTHER INSURANCE OF SECTION VI - CONDITIONS:

HOWEVER, FOR ANY PERSON OR ORGANIZATION THAT IS SHOWN IN SCHEDULE A BELOW
AND THAT QUALIFIES AS AN "INSURED" UNDER THIS POLICY, AND IF THE WRITTEN
CONTRACT IN WHICH YOU HAVE SIGNED AND AGREED TO PROVIDE INSURANCE PRIOR
TO THE LOSS FOR THE PERSON OR ORGANIZATION SCHEDULED BELOW, WHICH
SPECIFICALLY REQUIRES THAT THIS INSURANCE APPLY ON A PRIMARY OR A PRIMARY
AND NON-CONTRIBUTORY BASIS, THIS INSURANCE WILL APPLY AS IF OTHER INSURANCE
AVAILABLE TO THAT PERSON OR ORGANIZATION WHICH COVERS THAT PERSON OR
ORGANIZATION AS A NAMED INSURED DOES NOT EXIST, AND WE WILL NOT SHARE WITH
THAT OTHER INSURANCE. BUT, THIS INSURANCE IS STILL EXCESS OVER ANY OTHER
VALID AND COLLECTIBLE INSURANCE, WHETHER SUCH INSURANCE IS STATED TO BE
PRIMARY, CONTRIBUTING, EXCESS, CONTINGENT OR OTHERWISE, WITH RESPECT TO
THE AUTO HAZARD, OR ANY OTHER VALID AND COLLECTIBLE INSURANCE THAT IS
AVAILABLE TO THAT PERSON OR ORGANIZATION AS AN ADDITIONAL INSURED
UNDER SUCH OTHER INSURANCE.

THERE IS NO COVERAGE AFFORDED UNDER THIS ENDORSEMENT FOR ANY PERSON OR
ORGANIZATION THAT IS SHOWN IN SCHEDULE A BELOW FOR "BODILY INJURY",
"PROPERTY DAMAGE", "PERSONAL INJURY" OR "ADVERTISING INJURY" ARISING OUT
OF THE SOLE NEGLIGENCE OF ANY PERSON OR ORGANIZATION THAT IS SHOWN IN
SCHEDULE A BELOW OR BY THOSE ACTING ON THEIR BEHALF.

SCHEDULE A
=====

1. ANY PERSON OR ORGANIZATION FOR WHOM OR FOR WHICH YOU ARE
REQUIRED BY WRITTEN CONTRACT OR AGREEMENT TO PROVIDE
INSURANCE ON A PRIMARY AND NON-CONTRIBUTORY BASIS, SUBJECT
TO THE TERMS AND CONDITIONS OF THIS POLICY.

THE TERMS OF THIS ENDORSEMENT WILL ONLY APPLY TO THE EXTENT THAT THE
WRITTEN CONTRACT OR AGREEMENT ACKNOWLEDGED IN THIS ENDORSEMENT IS ALSO
COVERED BY A POLICY LISTED IN THE SCHEDULE OF UNDERLYING INSURANCE AND FOR
NO BROADER COVERAGE THAN IS PROVIDED BY SUCH INSURANCE.

THIS ENDORSEMENT DOES NOT CHANGE ANY OTHER PROVISION OF THE POLICY.

GENERAL ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CANCELLATION - ADDITIONAL PROVISIONS
(BLANKET EXCEPTION FOR ADDITIONAL INSURED)

NOTWITHSTANDING THE CANCELLATION PROVISIONS OF THIS POLICY, WE HEREBY AGREE TO ENDEAVOR TO PROVIDE 30 DAYS WRITTEN NOTICE OF CANCELLATION TO THE PERSON OR ORGANIZATION, WHO IS AN ADDITIONAL INSURED UNDER THIS POLICY AND SPECIFICALLY NAMED IN SCHEDULE A BELOW FOR ANY CANCELLATION, EXCEPT CANCELLATION FOR NON-PAYMENT OF PREMIUM. IF WE CANCEL FOR NON-PAYMENT OF PREMIUM, WE WILL GIVE NO LESS THAN (10) DAYS ADVANCED WRITTEN NOTICE TO THE NAMED INSURED.

IT IS FURTHER AGREED AND UNDERSTOOD THAT THIS NOTIFICATION IS MERELY PROVIDED AS A COURTESY SERVICE TO THE FIRST NAMED INSURED SHOWN IN ITEM 1. OF THE DECLARATIONS PAGE AND DOES NOT INFLUENCE OR AMEND THE RIGHTS, DUTIES, OR OBLIGATIONS OF THE COMPANY OR THE NAMED INSURED UNDER THIS POLICY IN ANY WAY. FAILURE TO PROVIDE SUCH NOTIFICATION AS INDICATED ABOVE WILL NOT BE INTERPRETED TO EXTEND THE POLICY CANCELLATION DATE OR NEGATE THE CANCELLATION OF THIS POLICY.

SCHEDULE A

NAME OF PERSON OR ORGANIZATION MAILING ADDRESS

ANY PERSON OR ORGANIZATION, WHO QUALIFIES AS AN ADDITIONAL INSURED UNDER THIS POLICY AND HAS REQUIRED VIA WRITTEN CONTRACT FOR THE NAMED INSURED TO PROVIDE NOTICE OF CANCELLATION FOR REASONS OTHER THAN NON-PAYMENT OF PREMIUM, BUT ONLY IF AN ACCURATE LIST OF SUCH PERSONS OR ORGANIZATIONS WITH CORRECT MAILING ADDRESSES AND CONTACT NAMES HAVE BEEN PROVIDED TO US UPON THE LATTER DATE OF EITHER: (1) WITHIN 10 DAYS OF THE INCEPTION DATE OF THIS POLICY; OR (2) WITHIN 10 DAYS OF ISSUING THIS ENDORSEMENT.

THIS ENDORSEMENT DOES NOT CHANGE ANY OTHER PROVISION OF THE POLICY.

GAI 6079
(Ed. 10 98)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED LIMITATION

Section V - **DEFINITION F. "Insured,"** Paragraph 5 is deleted and replaced by the following:

5. Any person or organization, other than the Named Insured, included as an additional "Insured" solely by virtue of an "Insured Contract," and to which coverage is provided by the "underlying insurance," and for no broader coverage than is provided by the "underlying insurance" to such additional "Insured." The Limits of Insurance applicable to the additional "Insured" are the lesser of those specified in the Declarations of this policy or those specified in the "insured contract" less the applicable "underlying insurance." The Limits of Insurance applicable to the additional "Insured" are included within, and not in addition to, the Limits of Insurance shown in the Declarations.

This Endorsement does not change any other provision of the policy.

GAI 6079 (Ed. 10/98) XS



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/02/2023

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

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

PRODUCER		CONTACT NAME:	
Klein Agency, LLC P.O. Box 219		PHONE (A/C No. Ext): (410) 832-7600	FAX (A/C No): (410) 832-1849
Timonium		E-MAIL ADDRESS: certs@kleinagencylc.com	
MD 21094		INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED		INSURER A: XL Specialty Insurance	37885
KCI Technologies, Inc. 936 Ridgebrook Road		INSURER B:	
Sparks		INSURER C:	
MD 21152		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES		CERTIFICATE NUMBER: 22-23 PL Only		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	ADD(SUB) INSD	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	\$
	CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/>						DAMAGE TO RENTED PREMISES (Fa occurrence)	\$
							MED EXP (Any one person)	\$
							PERSONAL & ADV INJURY	\$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$
	POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG	\$
	OTHER:							\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Fa accident)	\$
	ANY AUTO						BODILY INJURY (Per person)	\$
	OWNED AUTOS ONLY	<input type="checkbox"/>	SCHEDULED AUTOS				BODILY INJURY (Per accident)	\$
	Hired AUTOS ONLY	<input type="checkbox"/>	NON-OWNED AUTOS ONLY				PROPERTY DAMAGE (Per accident)	\$
	UMBRELLA LIAB	<input type="checkbox"/>	OCCUR					\$
	EXCESS LIAB	<input type="checkbox"/>	CLAIMS-MADE				EACH OCCURRENCE	\$
	DED	<input type="checkbox"/>	RETENTION \$				AGGREGATE	\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	<input type="checkbox"/> Y/N	N/A				PER STATUTE	OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
A	Professional Liability			DPR5006107	12/15/2022	12/15/2023	Per Claim:	\$10,000,000
							Aggregate:	\$15,000,000

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

Re: General Engineering Services. If required by an insured written contract, executed prior to any loss, Waiver of Subrogation is provided for Professional Liability Policy subject to all policy terms and conditions. 30 day notice of cancellation, 10 day for non-payment.

CERTIFICATE HOLDER		CANCELLATION	
City of Key West 1300 White Street Key West		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	

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