

AGREEMENT FOR GENERAL CONSULTING SERVICES

THIS AGREEMENT, made and entered into this 2nd day of February, 2012, by and between the CITY of Delray Beach, Florida, hereinafter referred to as "CITY", and Calvin, Giordano and Associates, Inc., hereinafter referred to as "CONSULTANT".

WITNESSETH:

WHEREAS, the CITY has provided notice of the desired professional services and carried out the proper selection process pursuant to and in accordance with the Consultant's Competitive Negotiation Act; and,

WHEREAS, the CITY represents that it is a Florida municipal corporation with the authority to engage the CONSULTANT and accept the obligation for payment for the services desired; and,

WHEREAS, the CITY desires to engage the CONSULTANT to perform certain professional services pertinent to such work in accordance with this AGREEMENT and with SERVICE AUTHORIZATIONS to be issued at the time of or subsequent to execution of this AGREEMENT; and

WHEREAS, this AGREEMENT does not entitle the CONSULTANT to any fees for any particular project without first receiving a Service Authorization; and

WHEREAS, the CONSULTANT desires to provide such professional services in accordance with this AGREEMENT and SERVICE AUTHORIZATIONS.

NOW, THEREFORE, in consideration of the premises and the mutual benefits which will accrue to the parties hereto in carrying out the terms of this AGREEMENT, it is mutually understood and agreed as follows:

I. DEFINITIONS; GENERAL CONDITIONS

- A. THE SCOPE OF WORK is to be implemented in phases as set forth by this Agreement and by SERVICE AUTHORIZATIONS, which are attached hereto and made a part hereof, and as also may be added as approved by the City from time to time.
- B. A SERVICE AUTHORIZATION is a form to be used to authorize work, projects, and services. The form shall be executed by the CITY'S and CONSULTANT'S representatives. A CITY purchase order number shall be identified on the form. The purchase order authorization is established in the CITY Code of Ordinances with provisions for expenditure levels of approval authorizations. A sample form of the service authorization is attached as Exhibit "A" to this AGREEMENT. The projects, work, and services to be performed by the CONSULTANT, and time for completion of the particular phase of the work by CONSULTANT, shall be authorized by a SERVICE AUTHORIZATION. The SERVICE AUTHORIZATION shall include the scope of work to be performed; the budget cost, complete with an itemization of man-hours, wage rates, reimbursable expenses, and other related costs; schedule for completion and name of project manager. The SERVICE AUTHORIZATION shall be signed by the CITY and the CONSULTANT'S authorized representative. A CITY purchase order shall be issued with

authorization identifying funds and amount of expenditures. The terms of this AGREEMENT supersede the terms stated on the purchase order.

- C. PHASES: A phased approach may be utilized. The City and the Consultant shall have the right to negotiate the terms of each phase as contained within each service authorization, and to reject any service authorization, if the parties cannot agree to the terms of the service authorization. In the event the parties cannot agree, the city may select the next ranked proposer or go out for additional proposals in order to complete the subsequent phase(s) of the project. This phased approach shall not waive the City's right to terminate the Consultant's contract during any phase of the project.

II. GENERAL DUTIES OF CONSULTANT

- A. The relationship of the CONSULTANT to the CITY will be that of a professional CONSULTANT, and the CONSULTANT will provide the professional and technical services required under this AGREEMENT in accordance with acceptable professional practices and ethical standards. No employer/employee relationships shall be deemed to be established and the CONSULTANT, its agents, subcontractors, and employees shall be independent contractors at all times.
- B. Professional and Technical Services. It shall be the responsibility of the CONSULTANT to work with the CITY and apprise it of solutions to problems and the approach or technique to be used towards accomplishment of the CITY'S objectives as set forth in SERVICE AUTHORIZATIONS, which will be made a part of this AGREEMENT upon execution by both parties.
- C. The scope of services to be provided shall be covered in detail in SERVICE AUTHORIZATIONS.
- D. The City has established a budget for each project awarded to CONSULTANT. The CONSULTANT shall be responsible for providing, at no additional cost to the City, new designs, drawings, specifications, reports and other applicable services if the budget for the entire project is exceeded during and up to completion of the design phase of the project; however, nothing contained herein shall require the CONSULTANT to bear additional costs if the additional costs are a result of a change in the scope of services directed by the City.
- E. The CONSULTANT shall be responsible for the professional quality, technical accuracy, timely completion, compliance with regulations and rules, and the coordination with all appropriate agencies of all designs, drawings, specifications, reports and other services furnished by the CONSULTANT under this AGREEMENT. If the CITY determines there are any errors, omissions or other deficiencies in the CONSULTANT'S designs, drawings, specifications, reports and other services, the CONSULTANT shall, without additional compensation, correct or revise said errors or omissions to the satisfaction of the CITY.
- F. Approval by the CITY of drawings, designs, specifications, reports and incidental professional services or materials furnished hereunder shall not in any way relieve the CONSULTANT of responsibility for the technical adequacy of its work. The CITY'S review, approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights

under this AGREEMENT or of any cause of action arising out of the performance of this AGREEMENT.

- G. The CONSULTANT and its subconsultants shall have no responsibility for the discovery, presence, handling or removal or disposal of or exposure of persons to hazardous materials in any form existing prior to construction at the project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or any other toxic substances.
- H. The CONSULTANT designates Patrick A. Figurella, P.E., as its representative to act as liaison with the CITY. The representative shall manage and coordinate CITY projects and is hereby authorized to act on behalf of the CONSULTANT to negotiate and approve SERVICE AUTHORIZATIONS and act on any other related matter with respect to performance of services for the CITY in accordance with the AGREEMENT. Any change to name another person shall be requested in writing to the CITY, and shall be approved by the City.
- I. CONSULTANT shall attend all meetings, as specified or as defined in each SERVICE AUTHORIZATION of the City Commission or any City approval Board, where the project is discussed, unless the City's representative declares such attendance and participation is not necessary. In addition, the CONSULTANT shall attend all additional meetings as may be required to facilitate the project.

II. DUTIES OF CONSULTANT:

The following Duties of CONSULTANT are separated into phases of the project, which if approved via SERVICE AUTHORIZATIONS shall be performed by the CONSULTANT. The City may require SERVICE AUTHORIZATIONS, which contain additional requirements applicable to the project. The City must authorize through service authorizations, the commencement of each phase of the work.

A. Phase I – Study and Report Phase.

If the Study and Report Phase is authorized, the following requirements shall apply.

1. The CONSULTANT shall consult with the CITY to clarify and define the CITY'S requirements for the Project and review available data.
2. The CONSULTANT shall advise the CITY as to the necessity of the CITY'S providing or obtaining from others, data or services.
3. The CONSULTANT shall identify and analyze permit and approval requirements of all governmental authorities having jurisdiction to approve either the design of the Project and participate in consultations with such authorities.
4. The CONSULTANT shall provide analyses of the CITY'S needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.
5. The CONSULTANT shall provide a general economic analysis of Owner's requirements applicable to various alternatives.

6. The CONSULTANT shall prepare a Report containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to the CITY and setting forth CONSULTANT'S findings and recommendations. This Report will be accompanied by CONSULTANT'S pre-design estimate of probable costs for the Project, including, but not limited to the following, which will be separately itemized: Construction Cost, allowance for engineering costs and contingencies allowances for such other items, such as charges of all other professionals and consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, and for permit, review and/or approval fees by other governmental agencies, if required. The CONSULTANT shall also provide a preliminary evaluation of the City's Project Schedule. The City's Project Schedule and probable construction costs shall be evaluated and updated throughout subsequent phases of the work.
7. The CONSULTANT shall furnish the number of copies of the Study and Report documents as provided in the SERVICE AUTHORIZATION and review them with the CITY.

B. Phase II – Preliminary Design Phase.

If the Preliminary Design Phase is authorized, the following requirements will apply:

1. The CONSULTANT, in consultation with the CITY shall determine the general scope, extent and character of the Project.
2. Prepare Preliminary Design documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project.
3. Advise the CITY if additional data or services are necessary and assist the CITY in obtaining such data and services.
4. Furnish the specified number of copies of the above Preliminary Design documents as contained within the SERVICE AUTHORIZATION and present and review them with the CITY.
5. The CONSULTANT shall submit to the CITY a preliminary estimate of construction costs based on current area, volume or other unit costs, which shall be updated throughout the design development phase.
6. The CONSULTANT shall prepare a development schedule, which shall include, but shall not be limited to, the review and approval times by all governmental agencies as may be required.
7. The CONSULTANT shall make available all design calculations and associated Data, and participate in meetings in which Value Engineering Analysis of the project takes place, at such times and places as shall be determined by the CITY.

C. Phase III. Final Design Phase.

If the Final Design Phase is authorized, the following requirements shall apply:

1. The CONSULTANT shall prepare construction documents which shall include but not be limited to drawings and technical specifications, general and supplementary conditions, bid forms, invitations to bid, instructions to bidders, with technical criteria, descriptions and design data necessary for permitting by governmental authorities, and shall include any further adjustments in the scope or quality of the project or in the construction budget authorized by the City.
2. The CONSULTANT shall, in the preparation of construction documents, technical criteria, written descriptions and design data, take into account all currently prevailing codes and regulations governing construction in the City of Delray Beach, Florida, and shall meet the requirements of all other agencies or governmental authorities having jurisdiction over the project.
3. The CONSULTANT shall prepare a detailed opinion of probable cost in accordance with paragraph I.C, which shall be reviewed by the CITY prior to going out for bids.
4. The CONSULTANT shall provide the required documents and attend meetings as necessary, for the approval of governmental boards, agencies or authorities having jurisdiction over the project.
5. The CONSULTANT shall use bid documents provided by the CITY including bidding forms, conditions of the contract, and form of AGREEMENT between the CITY and CONTRACTOR.
6. The CONSULTANT shall prepare all documents including design and plan revisions required for the approval of governmental authorities having jurisdiction over the project. Said approvals are required prior to the public notice for the Invitation to Bid and submission of applications, therefore are the responsibility of the CONSULTANT.
7. The CONSULTANT shall provide the CITY the number of copies of contract documents as specified in the service authorization.

D. Phase IV – Bidding/Negotiation Phase.

If the bidding phase is authorized, the following requirements shall apply:

1. The CONSULTANT shall assist the CITY in obtaining the bids or negotiated proposals, assist in awarding and preparing contracts for construction, attend pre-bid conferences, prepare addenda, provide written recommendation of award, assist in the compilation/preparation of contract documents, and after the award assist the CITY in securing the required bonds and certificates of insurance, and in the review of the contract documents for completeness.
2. The CONSULTANT shall attend the bid opening, prepare bid tabulation sheets and assist the CITY in evaluating Bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.
3. The CONSULTANT shall issue addenda as appropriate to interpret, clarify or expand the Bidding Documents.
4. The CONSULTANT shall consult with and advise the CITY as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) (herein called CONTRACTOR(S) for those portions of the work as to which such acceptability is required by the Bidding Documents.

5. Consult with the CITY concerning and determine the acceptability of substitute materials and equipment prior to the award of contracts is allowed by the Bidding Documents.

E. Phase V – Construction Phase.

If Contract Administration is authorized, the following requirements shall apply:

1. The CONSULTANT shall provide administration of the contract for construction as set forth herein and as contained within the general conditions of the contract for construction.
2. The CONSULTANT shall be a representative of and shall advise and consult with the CITY during construction and until final payment to the contractor is due. The CONSULTANT shall have authority to act on behalf of the CITY only to the extent provided in this AGREEMENT and as provided in the contract for construction unless otherwise modified by written instrument.
3. The CONSULTANT shall visit the site at regular intervals appropriate to the stage of construction or as otherwise agreed to by the CITY and the CONSULTANT, in writing, to become generally familiar with the progress and quality of the work completed and shall determine in general if the work is being performed in a manner indicating that the work when completed will be in accordance with the contract documents. The CONSULTANT shall be required to make on-site observations to review the work. The CONSULTANT shall keep the CITY informed of the progress and quality of the work and shall provide certification to the CITY of satisfactory completion of all phases of the work in compliance with the plans, specifications thereto.
4. The CONSULTANT shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures of construction or for safety precautions and programs in connection with the work, since these are solely the CONTRACTOR'S responsibility under the contract for construction. The CONSULTANT shall make every reasonable effort to ensure that the CONTRACTOR completes the work in accordance with the current approved schedule and carries out the work in accordance with the Contract documents.
5. The CONSULTANT based on observations and evaluations of CONTRACTOR'S applications for payment shall review and certify the amounts due the CONTRACTOR.
6. The CONSULTANT'S certification for payment shall constitute a representation to the CITY, based on the CONSULTANT'S observations at the site as provided herein and on the data comprising the CONTRACTOR'S application for payment, that the work has progressed to the point indicated and that, to the best of the CONSULTANT'S knowledge, information, and belief, the quality and quantity of the work is the accordance with the contract documents. The foregoing representations are subject to an evaluation of the work for conformance with the contract documents upon substantial completion, to results of subsequent tests and inspections, to minor deviations from the contract documents, correctable prior to completion and to specific qualifications expressed by the CONSULTANT. The issuance of the certificate of payment shall further constitute a representation that the CONSULTANT has made observations to review the quality or quantity of the work.
7. The CONSULTANT shall recommend disapproval or rejection of CONTRACTOR'S work to the CITY, which does not conform to the contract documents. The CONSULTANT will have authority to require additional inspection or testing of the work in accordance with the

- provisions of the contract documents, whether or not work is fabricated, installed or completed.
8. The CONSULTANT shall review and approve or take other appropriate action upon CONTRACTOR'S submittals, such as shop drawings, product data, and samples for the purpose of checking for conformance with information given and the design concept expressed in the contract documents. The CONSULTANT shall evaluate and determine the acceptability of substitute materials and equipment proposed by CONTRACTORS.
 9. The CONSULTANT shall prepare change orders and construction change directives with supporting documentation and data if deemed necessary by the CONSULTANT, for the CITY'S approval and execution in accordance with the contract documents, and may authorize minor changes in the work not involving an adjustment in the contract time, which is consistent with the intent of the contract documents.
 10. The CONSULTANT shall conduct inspections to determine the date or dates of substantial completion and the date of final completion, shall receive and forward to the CITY for the CITY'S review and records, written warranties and related documents required by the contract documents and assembled by the CONTRACTOR and shall issue a final certificate for payment upon compliance with the requirements of the contract documents.
 11. The CONSULTANT shall interpret matters concerning performance of the CITY and CONTRACTOR under the requirements of the contract documents on written request of either the CITY or CONTRACTOR. The CONSULTANT'S response to such requests shall be made with reasonable promptness and within any time limits agreed upon.
 12. Interpretations of the CONSULTANT shall be consistent with the intent of and reasonably inferable from the contract documents and shall be in writing or in the form of drawings. When making such interpretations, the CONSULTANT shall endeavor to secure faithful performance by both the CITY and the CONTRACTOR.
 13. The CITY shall be the final arbiter on matters relating to aesthetics.
 14. The CONSULTANT shall render written interpretations within a reasonable time on all internal disputes between the CITY and CONTRACTOR relating to the execution of the progress of the work as provided in the contract documents.
 15. The CONSULTANT'S interpretations on internal disputes are not binding on the CITY and CONTRACTOR relating to the execution of the progress of the work as provided in the contract documents.
 16. The CONSULTANT shall provide the number of sets of the construction documents to the CONTRACTOR as specified in the SERVICE AUTHORIZATION.
 17. Upon completion of construction the CONSULTANT shall provide to the CITY, three sets of record drawings, signed and sealed, plus one set of mylars incorporating as built conditions and other data furnished by contractor(s) to CONSULTANT.
 18. In company with the City, the CONSULTANT shall visit the Project to observe any apparent defects in the completed construction, assist the CITY in consultations and discussions with CONTRACTOR(S) concerning correction of such deficiencies, and make recommendations as to replacement or correction of deflection work.

F. Phase VI – Resident Project Representative Services Phase

If the Resident Project Representative Services Phase is authorized the following requirements shall apply:

- A. A Resident Project Representative will be assigned to assist CONSULTANT in carrying out his responsibilities to CITY at the site. Resident Project Representative is CONSULTANT'S agent at site, will act as directed by and under the supervision of CONSULTANT, and will confer with CONSULTANT regarding Resident Representative's actions. Resident Representative's dealing in matters pertaining to the on-site work shall in general be with CONSULTANT and CONTRACTOR keeping the CITY advised as necessary. Resident Project Representative's dealings with subcontractors shall only be through or with the full knowledge and approval of CONTRACTOR. Resident Project Representative shall generally communicate with the CITY with the knowledge of and under the direction of CONSULTANT.
- B. Resident Project Representative shall where applicable:
1. Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by CONTRACTOR and consult with CONSULTANT concerning its general acceptability.
 2. Attend meetings with CONTRACTOR, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
 3. Working principally through CONTRACTOR'S superintendent, assist CONSULTANT in serving as the City's liaison with CONTRACTOR, when CONTRACTOR'S operations affect the CITY'S on-site operations.
 4. Assist in obtaining from the CITY additional details or information, when required for proper execution of the Work.
 5. Record date of receipt of Shop Drawings and samples.
 6. Receive samples, which are furnished at the site by CONTRACTOR, and notify the CONSULTANT of availability of samples for examination.
 7. Advise the CONSULTANT and CONTRACTOR of the commencement of any Work requiring a Shop Drawing, if the submittal has not been approved by the CONSULTANT.
 8. Conduct on-site observations of the Work in progress to assist the CONSULTANT in determining if the Work is, in general, proceeding in accordance with the Contract Documents.
 9. Report to the CONSULTANT whenever Residential Project Representative believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents; or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made. Advise the CONSULTANT of Work that Resident Project Representative believes should be uncovered for observation, or requires special testing, inspection or approval. Nothing herein shall relieve the CONTRACTOR or the CONSULTANT from the duties imposed by the contract.
 10. Verify that tests, equipment and systems startups, and operating and maintenance training are conducted in the presence of appropriate personnel, and that CONTRACTOR maintains adequate records thereof; and observe, record and report to the CONSULTANT appropriate details relative to the test procedures and startups.
 11. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to the CONSULTANT.

12. Report to CONSULTANT when clarifications and interpretations of the Contract Documents are needed and transmit to CONTRACTOR clarifications and interpretations as issued by the CONSULTANT.
13. Consider and evaluate CONTRACTOR'S suggestions for modifications in Drawings or Specifications and report with Resident Project Representative's recommendations to the CONSULTANT. Transmit to CONTRACTOR decisions as issued by the CONSULTANT.
14. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents, including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, CONSULTANT'S clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents
15. Keep a diary or log book, recording CONTRACTOR hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to the CONSULTANT.
16. Record all names, addresses and telephone numbers of the CONTRACTOR, all subcontractors and major suppliers of material and equipment.
17. Furnish the CONSULTANT periodic reports as required of progress of the Work of the CONTRACTOR'S compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
18. Consult with the CONSULTANT in advance of schedule major tests, inspections or start of important phases of the Work.
19. Draft proposed Change Orders and Work Directive Changes, obtaining backup materials from CONTRACTOR and recommend to the CONSULTANT, Change Orders, Work Directive Changes, and Field Orders.
20. Report immediately to the CONSULTANT and the CITY upon the occurrence of any accident.
21. Review applications for payment with CONTRACTOR for compliance with the established procedure for their submission and forward with recommendations to the CONSULTANT noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment delivered at the site, but not incorporated in the Work.
22. During the course of the work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to the CONSULTANT for review and forwarding to CITY prior to final payment for the Work.
23. Before the CONSULTANT issues a Certificate of Substantial Completion, submit to CONTRACTOR a list of observed items requiring completion or correction.
24. Conduct final inspection in the company of the CONSULTANT, the CITY and the CONTRACTOR and prepare a final list of items to be completed or corrected.
25. Observe that all items on final list have been completed or corrected and make recommendations to the CONSULTANT concerning acceptance.

C. The Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment.
2. Exceed limitations of the CONSULTANT'S authority as set forth in the Contract Documents.
3. Undertake any of the responsibilities of CONTRACTOR, subcontractors, or CONTRACTOR'S superintendent.
4. Advise on, issue directions regarding or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
5. Advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Accept Shop Drawing or sample submittals, from anyone other than CONTRACTOR.
7. Authorize the CITY to occupy the Project in whole or in part.
8. Participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by the CONSULTANT.

IV. DATA AND SERVICES TO BE PROVIDED BY THE CITY

The CITY shall provide the following:

- A. Furnish or cause to be furnished such reports, studies, instruments, documents, and other information as the CONSULTANT and CITY mutually deem necessary and which are under control of the CITY.
- B. Other data and services to be agreed upon in subsequent SERVICE AUTHORIZATIONS.
- C. Pay for all legal advertisements incidental to obtaining bids or proposals from contractors.
- D. The CITY Manager or his designee shall act as the CITY'S representative with respect to the work to be performed under this AGREEMENT. The CITY Manager or his designee shall have the authority to the extent authorized by the CITY Charter and Code of Ordinances to exercise the rights and responsibilities of the CITY provided in this contract. Said authority may include but is not limited to: transmit instructions, stop work, receive information, interpret CITY'S policies and decisions with respect to materials, equipment, elements, and systems pertinent to the services covered by this AGREEMENT.
- E. Pay all permit application filing fees.
- F. Provide access to CITY facilities.

V. TIME OF PERFORMANCE

- A. The CONSULTANT will begin work promptly after issuance of a Notice to Proceed.
- B. The CONSULTANT'S services called for under the AGREEMENT shall be completed in accordance with the schedule contained in each SERVICE AUTHORIZATION. If the CONSULTANT'S services are unreasonably delayed by the CITY in excess of 180 days, the time of performance and compensation shall be renegotiated, provided; however, the CONSULTANT as a condition precedent to renegotiations shall notify the City within fifteen (15) calendar days at the end of the delay of CONSULTANT'S proposed additional costs incurred by reason of said delay.

VI. AGREEMENT PERIOD

The agreement shall be for two (2) years with the right to renew for three (3) one (1) year extensions. Each one year renewal will be at the City's discretion. However, the agreement shall extend until all Service Authorizations are completed. Each Service Authorization shall delineate a time for completion of the services to be rendered.

VII. COMPENSATION

- A. The CITY will compensate the CONSULTANT for the services performed on each SERVICE AUTHORIZATION in accordance with a negotiated lump sum, or a not to exceed budgeted amount based on time charges which are based upon hourly rates, plus reimbursable expenses if compensation is based on Method II and other related costs as are specified in the SERVICE AUTHORIZATION.

1. METHOD 1 - LUMP SUM

Lump Sum Amount. Wherever possible, the scope of services for Services, Projects or Programs shall be thoroughly defined and outlined prior to its authorization. The CITY and CONSULTANT shall mutually agree to a lump sum amount for services to be rendered and a detailed scope of services. Should the CITY deem that a change in the scope of services is appropriate, then a decrease or increase in compensation shall be authorized in writing. In lump sum contracts, the CONSULTANT shall submit the estimated man-hours, wage rates and other actual unit costs supporting the compensation. The CONSULTANT shall submit a truth in negotiation certificate stating that all data supporting the compensation is accurate, complete and current at the time of contracting. Hourly rates included in the estimated man-hours shall not exceed established hourly rates as shown in Exhibit B attached hereto, plus reimbursable expenses and other related costs.

2. METHOD II - TIMES CHARGES/ NOT TO EXCEED BUDGETED AMOUNT

Computation of Time Charges/Not to Exceed Amount. When a service is to be compensated for on a time charge/not to exceed basis, the CONSULTANT will submit a not to exceed budget cost to the CITY for prior approval based on actual time charges which shall not exceed established hourly rates as shown in Exhibit B attached hereto, plus reimbursable expenses and other related costs. The CITY shall not be obligated to reimburse the CONSULTANT for costs incurred in excess of the not to exceed cost amount.

- a. The CITY agrees to pay the CONSULTANT compensation for services rendered based upon the established raw hourly salary rates as shown in Exhibit B for services rendered on CITY projects multiplied by an overhead factor not to exceed 3.0, which includes profit not to exceed ten percent (10%) and may be subject to audit. The Schedule of hourly rates as set forth in Exhibit B will not be adjusted during the initial two (2) year agreement. The rates in Exhibit B may be considered for adjusted after the initial two (2) year agreement; however the adjustment may not exceed more than five percent (5%) within any twelve (12) month period and will require written agreement of both parties. A newly revised Exhibit B must be submitted for approval.
- b. In addition, the CITY shall pay for reimbursable expenses invoiced at the actual cost of expenditures incurred by the CONSULTANT if provided in the SERVICE

AUTHORIZATION as follows:

- (1) Actual expense of transportation and lodging in accordance with CITY policy in effect at the time of travel when traveling in connection with each SERVICE AUTHORIZATION, express courier charges, and permit fees paid for securing approval of authorities having jurisdiction over the project.
 - (2) Actual expense of reproductions, of Drawings and Specifications including duplicate sets of the completion of each SERVICE AUTHORIZATION for the CITY'S review and approval.
 - (3) Actual expenses of testing, laboratory services, and field equipment.
 - (4) Actual expense of overtime work requiring higher than regular rates, when authorized by the CITY.
 - (5) Actual expense of Auto Travel at the established CITY rate per mile for travel outside Palm Beach County.
- B. Subcontractual service shall be invoiced at the actual fees paid by the CONSULTANT, plus an additional ten percent (10%) of the cost of these services to compensate CONSULTANT, for the

procuring and management of the sub-consultant, and for the other financial and administrative costs. Subcontractual services shall be approved by the CITY in writing prior to performance of the subcontractual work.

- C. Total Compensation (including, but not limited to compensation for sub-consultants) for all services and expenses shall not exceed the budget cost listed upon each SERVICE AUTHORIZATION, without written approval.
- D. If the CITY determines that any price for services, however calculated provided by the CONSULTANT, including profit, negotiated in connection with this AGREEMENT or any cost reimbursable under this AGREEMENT was increased by any significant sums because the CONSULTANT or any subcontractor furnished incomplete or inaccurate costs or pricing data, then such price or cost or profit shall be reduced accordingly and the SERVICE AUTHORIZATION shall be reduced accordingly and the SERVICE AUTHORIZATION shall be modified in writing to reflect such reduction.

VIII. PAYMENT

The CITY agrees that it will use its best effort to pay the CONSULTANT within thirty (30) calendar days from presentation of the CONSULTANT'S itemized report and invoice and approval of the CITY'S representative, unless additional time for processing is required for payments for basic services, subcontractual services, and reimbursable expenses as defined in Section VII. The CONSULTANT shall submit monthly invoices, as required in the SERVICE AUTHORIZATION, which shall include a report of work completed during the respective invoice period. Invoices shall be in a format consistent with that shown in Exhibit C. The report shall be adequate in detail to describe work progress (% complete for each task) and written summaries of work completed. No payment request shall exceed the value of work and services performed by the CONSULTANT under the SERVICE AUTHORIZATION.

IX. MISCELLANEOUS PROVISIONS

A. Ownership Documents:

All reproducible mylar drawings and CADD disks in a format compatible with CITY'S Computer system shall be given to the CITY. Details, design calculations, and all other documents and plans that result from the CONSULTANT'S SERVICES under this AGREEMENT shall become and remain the property of the CITY, including copyright rights, whether the project is completed or not, and will be delivered to the CITY upon demand. CONSULTANT reserves the right to retain a copy of all such documents for record purposes. Where such documents are required to be filed with governmental agencies, the CONSULTANT will furnish copies to the CITY upon request. The contract work is represented by hard copy documentation; software, is provided to the CITY for convenience only.

B. Copies of Documents:

The CONSULTANT shall prepare sufficient copies of all documents necessary to obtain approval through the City's processes, as well as other governmental authorities.. The CITY acknowledges that the materials cited in Paragraph IX A. and other data provided in connection

with this Agreement which are provided by the CONSULTANT are not intended for use in connection with any project other than the project for which such materials are prepared. Any use by the CITY of such materials in connection with a project other than that for which such materials were prepared without prior written consent and adaptation by the CONSULTANT shall be at the CITY'S sole risk, and the CONSULTANT shall have no responsibility or liability therefore.

C. Insurance:

Without limiting any of the other obligations or liabilities of the CONSULTANT, the CONSULTANT shall, at his own expense, provide and maintain in force, until all of its services to be performed under this AGREEMENT have been completed and accepted by the CITY (or for such duration as it otherwise specified hereinafter), the following insurance coverages:

1. Worker's Compensation Insurance to apply to all of the CONSULTANT'S employees in compliance with the "Worker's Compensation Law" of the State of Florida and all applicable Federal Laws.
 - A. Employer's Liability with limits of \$100,000 per person, \$500,000 per occurrence and \$100,000 per each disease.
2. Comprehensive General Liability with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements other than ISO Endorsement GL 21 06 (Engineers, Architects, or Surveyors Professional Liability exclusion), as Filed by the Insurance Services Office and must include:
 - a. Premises and/or Operations
 - b. Independent Contractors
 - c. Products and Completed Operations - CONSULTANTS shall maintain in force until at least three years after completion of all services required under this AGREEMENT, coverage for Products and Completed Operations, including Broad Form Property Damage.
 - d. Broad Form Property Damage
 - e. Contractual Coverage applicable to this specific AGREEMENT.
 - f. Personal Injury Coverage with minimum limits of coverage equal to those required for Bodily Injury Liability.
3. Business Automobile Liability with minimum limits of three hundred thousand dollars (\$300,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

- a. Owned Vehicles
- b. Hired and Non-Owned Vehicles
- c. Employers' Non-Ownership

4. Professional Liability Insurance with minimum limits per occurrence applicable to CITY projects as follows:

<u>Construction Cost Range</u>	<u>Limit</u>
a. 0 - 99,000	250,000
b. 100,000 - 299,000	500,000
c. 300,000 - 499,000	750,000
d. 500,000 - Above	1,000,000

Coverage shall be afforded on a form acceptable to the CITY. CONSULTANT shall maintain such professional liability insurance until at least one year after a Certificate of Occupancy is issued. CONSULTANT shall insure that sub-consultants used for any portion of the project, maintain adequate levels of Professional Liability Insurance.

5. Prior to commencement of services, the CONSULTANT shall provide to the CITY Certificates of Insurance evidencing the insurance coverage specified in the foregoing Paragraphs C1, C2, C3, C4. All policies covered within subparagraphs C1, C2, C3, C4, shall be endorsed to provide the CITY with thirty (30) days notice of cancellation and/or restriction. The CITY shall be named as an additional insured as to CONSULTANT'S liability on policies referenced in subparagraphs C2. The required Certificates of Insurance shall not only name the types of policies provided, but also shall refer specifically to this AGREEMENT and section and to the above paragraphs in accordance with which insurance is being furnished, and shall state that such insurance is as required by such paragraphs of this AGREEMENT. The CONSULTANT shall also make available to the CITY a certified copy of the professional liability insurance policy required by paragraph 4 above for the City's review. Upon request, the CONSULTANT shall provide copies of all other insurance policies.
6. If the initial insurance policies required by this AGREEMENT expire prior to the completion of the services, renewal Certificates of Insurance of policies shall be furnished thirty (30) days prior to the date of their expiration. For Notice of Cancellation and/or Restriction; the policies must be endorsed to provide the CITY with thirty (30) days notice of cancellation and/or restriction.
7. The CONSULTANT'S insurance, including that applicable to the CITY as an Additional Insured, shall apply on a primary basis.

D. Litigation Services:

It is understood and agreed that CONSULTANT'S services include reasonable participation in litigation or dispute resolution arising from this AGREEMENT. CONSULTANTS participation shall include up to 30 hours of services related to litigation or dispute resolution. Any such services in excess of 30 hours shall be an extra service.

E. Authority to Contract:

The CITY represents that it is a Florida Municipal Corporation with the authority to engage the CONSULTANT for professional services described in the SERVICE AUTHORIZATIONS and to accept the obligation for payment for the services described in the SERVICE AUTHORIZATIONS.

F. Assignment:

The CITY and the CONSULTANT each binds itself and its successors, legal representatives, and assigns to the other party to this AGREEMENT and to the partners, successors, legal representatives, and assigns of such other party, in respect to all covenants of this AGREEMENT subject to budget considerations and requirements of law; and, neither the CITY nor the CONSULTANT will assign or transfer their interest in this AGREEMENT without the written consent of the other.

G. Confidential Information:

During all times that the CONSULTANT is employed on behalf of the CITY and at all times subsequent to the date of this contract, all discussions between the CITY and the CONSULTANT and all information developed or work products produced by the CONSULTANT during its employment and all matters relevant to the business of the CITY not otherwise being a matter of public record shall be deemed to be confidential. All such information and work product shall be protected by the CONSULTANT and shall not be revealed to other persons without the express written permission of the CITY, unless mandated by order of the court.

H. Non-Exclusive Contract:

The CITY reserves the right to award projects to other firms pursuant to the Florida Statutes Consultant's Competitive Negotiations Act during the period of service of the CONSULTANT. The CONSULTANT agrees to cooperate with the CITY and other firms in accomplishing work that may require joint efforts to accomplish the CITY'S goals. This cooperation, when requested by the CITY, will include but not be limited to:

1. Sharing technical information developed under contract with the CITY.
2. Joint meetings for project coordination.
3. Establish lines of communication.

I. Subconsultants:

In the event the CONSULTANT, during the course of the work under this AGREEMENT requires the services of any subcontractors or other professional associates in connection with

services covered by this AGREEMENT, CONSULTANT must secure the prior written approval of the CITY.

J. Notices:

Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended at the place last written, as the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places of giving of notice to wit:

CITY of Delray Beach

CITY MANAGER
City of Delray Beach, Florida
100 NW 1st Avenue
Delray Beach, Florida 33444

CONSULTANT

Dennis J. Giordano

Calvin, Giordano and Associates, Inc.

560 Village Boulevard, Suite 340

West Palm Beach, FL 33409

K. Attachments:

Request for Qualifications is hereby incorporated within and made an integral part of this AGREEMENT.

L. Truth-In-Negotiation Certificate:

Signature of this AGREEMENT by CONSULTANT 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. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the CITY determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs.

M. Records:

Records of all expenses relative to each SERVICE AUTHORIZATION shall be kept on a generally recognized accounting basis and shall be available to the CITY or its authorized representative at mutually convenient times.

N. Personnel:

The CONSULTANT represents that it has or will secure, at its own expense, qualified personnel required in performing the services under this AGREEMENT. All work shall be performed under the direction of a professional, registered under the State of Florida in the field for which he is responsible for performing such services.

The project manager shall be approved by the CITY under each SERVICE AUTHORIZATION. Key project personnel will be identified for each project and expected to perform the work assignment as can reasonably be expected.

O. Equal Opportunity Employment:

CONSULTANT agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth this non-discrimination clause. This provision applies to all CONSULTANT'S subcontractors and it is the responsibility of CONSULTANT to ensure subcontractor's compliance.

P. Prohibition Against Contingent Fees:

The CONSULTANT warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this AGREEMENT, and that he has not paid or agreed to pay any persons, company, corporation, individual or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this AGREEMENT.

Q. Termination:

This AGREEMENT may be terminated by either party by seven (7) calendar days prior written notice, in the event of substantial failure to perform in accordance with the terms hereof by the other party through no fault of the terminating party. The CITY shall have the right to terminate this AGREEMENT for convenience at any time by thirty (30) calendar days written notice to the consultant. In the event the project described in any SERVICE AUTHORIZATION, or the services of the CONSULTANT called for under any SERVICE AUTHORIZATION, is or are suspended, canceled, or abandoned by the CITY, the CONSULTANT shall be given five days prior written notice of such action and shall be compensated for the professional services provided and reimbursable expenses incurred up to the date of suspension, cancellation or abandonment. The CONSULTANT agrees to provide all documents to the CITY (specifically those referenced in paragraph IX.A. Further, prior to the CONSULTANT'S destruction of any of the above referenced documents, the CITY shall be notified and allowed a reasonable period to

gain access to and make copies of any such documents. Upon any termination of this AGREEMENT, the CONSULTANT agrees that it shall use its best efforts to work harmoniously with any successor who enters an AGREEMENT to provide services for the CITY in order to provide for a smooth transition period.

R. Indemnification:

In consideration of ten dollars (\$10.00) and other valuable consideration, the CONSULTANT will at all times indemnify, save and hold harmless and defend the CITY, its officers, agents (the term agents shall not include the contractor(s), any subcontractors, any materialmen or others who have been retained by the City or Contractor, or materialmen to supply goods or services to the project) and employees, from and against all liability, any claim, demand, damage, loss, expense or cause of action and costs (including attorney's fees at trial or appellate levels) arising out of error, omission, or negligent act of CONSULTANT, its agents, servants or employees in the performance of services under this agreement. The CONSULTANT further agrees to indemnify, hold harmless and defend the City, its officers, agents and employees from and against any claim, demand or cause of action arising out of any negligence or misconduct of CONSULTANT for which the City, its agents, servants or employees are alleged to be liable. The indemnification's contained herein shall survive the expiration or earlier termination of this Agreement. Nothing in this AGREEMENT shall be deemed to affect the rights, privileges and immunities of the CITY as set forth in Florida Statutes 768.28.

S. Interest of the Consultant:

The CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in any Project to which this AGREEMENT pertains or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The CONSULTANT further covenants that in the performance of this AGREEMENT, no person having such interest shall be employed.

T. Compliance with Laws:

- a. The CONSULTANT shall comply with the applicable requirements of State and applicable County laws and all Codes and Ordinances of the CITY OF DELRAY BEACH as amended from time to time, and that exist at the time of building permit issuance.
- b. For SERVICE AUTHORIZATIONS involving work under Federal or State Grantors or Approving Agencies, the CITY and the CONSULTANT shall review and approve the applicable required provisions or any other supplemental provisions as may be included in each SERVICE AUTHORIZATIONS.

U. Jurisdiction; Venue:

The CONSULTANT hereby covenants, consents and yields to the jurisdiction of the State Civil Courts of Palm Beach County, Florida. Any dispute between CONSULTANT and the CITY shall be governed by the laws of Florida with venue in Palm Beach County.

V. Internal Dispute Between Owner and Consultant:

The City Manager shall be the final decision maker regarding internal disputes between CITY and CONSULTANT.

W. Extent of Agreement:

This AGREEMENT represents the entire integrated AGREEMENT between the CITY and the CONSULTANT and supersedes all prior negotiations, representations or AGREEMENTS, written or oral. This AGREEMENT does not entitle the CONSULTANT to receive any fee unless first being issued a Service Authorization. This AGREEMENT does not provide that a CONSULTANT is entitled to receive any Service Authorization. This AGREEMENT may not be amended, changed, modified, or otherwise altered in any way, at any time after the execution hereof, except by approval of the CITY Commission. This AGREEMENT applies only to those projects that are on the CITY'S Capital Improvement Plan (CIP), attached hereto as Exhibit "D". The CITY is not required to issue any Service Authorizations to CONSULTANT for any projects listed on the CIP.

IN WITNESS WHEREOF, the CITY has caused these presents to be executed in its name by its Mayor,
and attested and its official Seal to be hereunto affixed by its CITY Clerk, and the CONSULTANT has hereunto
set its hand and Seal the day and year first written above.

CITY OF DELRAY BEACH, FLORIDA

By: [Signature] MAYOR

ATTEST:

[Signature]
City Clerk

Approved as to Form:

[Signature]
CITY Attorney

CONSULTANT Calvin, Giordano and Associates, Inc.

[Signature] By: _____
Witness

[Signature] Title: _____
Name Printed

(Seal)

[Signature] Witness

JESUS L. GONZ
Name Printed

ACKNOWLEDGEMENT IF CORPORATION

State of Florida
County of Palm Beach

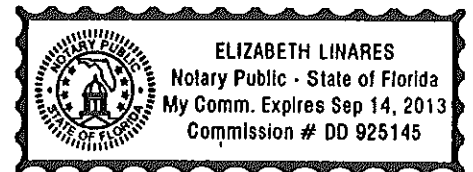
BEFORE ME, the foregoing instrument, this 4 day of January, 2002 was acknowledged by Dennis Giordano, on behalf of the Corporation and said person executed the same freely and voluntarily for the purpose therein expressed.

WITNESS my hand and seal in the County and State aforesaid this 4 day of January, 2002



Notary Public
My Commission Expires:

(SEAL)



ACKNOWLEDGEMENT IF AN INDIVIDUAL

State of Florida
County of Palm Beach

I HEREBY CERTIFY that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments, personally appeared _____, known to me to be the person in and who executed the foregoing instrument, and acknowledged before me that he/she executed the same.

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 200 .

Notary Public
My Commission Expires:

ACKNOWLEDGEMENT IF A PARTNERSHIP

State of Florida
County of Palm Beach

I HEREBY CERTIFY that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments, personally appeared _____, known to me to be the person in and who executed the foregoing instrument as a partner of _____, a partnership. He/She acknowledged before that he/she executed the same as the act and deed of said partnership for the uses and purposes therein mentioned.

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 200_.

Notary Public

My Commission Expires: _____

EXHIBIT A (SAMPLE)
CONSULTING SERVICE AUTHORIZATION

DATE: _____

CONSULTANT: _____

SERVICE AUTHORIZATION NO. _____ FOR CONSULTING SERVICES

CITY P.O. NO. _____ CITY EXPENSE CODE _____

CITY PROJECT NO. _____ CONSULTANT PROJECT NO. _____

TITLE: _____

This Service Authorization, when executed, shall be incorporated in and shall become an integral part of the "Agreement for General Consulting Engineering Services" Contract.

I. PROJECT DESCRIPTION

II. SCOPE OF SERVICES

Phase I – Study and Report Phase
Phase II – Preliminary Design Phase
Phase III – Final Design Phase
Phase IV – Bidding/Negotiating Phase
Phase V – Construction Administration
Other – Permitting
Other – Surveying
Other – Geotechnical
Other – Field Verification

III. TIME OF PERFORMANCE

IV. COMPENSATION

<u>Engineering Services</u>	<u>Estimated Fees</u>
Phase I – Study and Report Phase	\$
Phase II – Preliminary Design Phase	\$
Phase III – Final Design Phase	\$
Phase IV – Bidding/Negotiating Phase	\$
Phase V – Construction Administration	\$
Other – Permitting	\$
Other – Surveying	\$
Other – Geotechnical	\$
Other – Field Verification	\$
Out-of-Pocket Expenses	\$ _____
Total Project Cost	\$

Notes:

Out -of-Pocket Expenses include the following: printing/reproduction/ postage.

This service authorization is approved contingent upon the City's acceptance of and satisfaction with the completion of the services rendered in the previous phase or as encompassed by the previous service authorization. If the City in its sole discretion is unsatisfied with the services provided in the previous phase or service authorization, the City may terminate the contract without incurring any further liability. The CONSULTANT may commence work on any service authorization approved by the City to be included as part of the contract without a further notice to proceed.

Approved by:

CITY OF DELRAY BEACH:

Date _____

Mayor

CONSULTANT:

Date _____

By: _____
(Seal)

Witness (Signature)

Witness (Printed)

Attest: _____

Approved as to Legal Sufficiency

City Attorney

BEFORE ME, the foregoing instrument, this _____ day of _____, 201____, was acknowledged by _____ on behalf of the Corporation _____, and said person executed the same free and voluntarily for the purpose there-in expressed.

Witness my hand and seal in the County and State aforesaid this _____ day of _____, 201____.

Notary Public
State of Florida

My Commission Expires:

EXHIBIT B
Calvin, Giordano & Associates, Inc.

Employer Category	Raw Salary Hourly Rates	Raw Salary Hourly Rates (With Overhead Factor)	
<hr/>			
<u>Professionals</u> – (Engineers, Architects, Planners, Economists, Scientists, Hydrologists, Hydrogeologists, Geologists, etc.)			
	Raw Salary	Overhead Factor	Hourly Rate
Associate, Engineering (VI) (max rate \$175.00)	\$58.333	3.00	\$175.00
Director, Engineering (V) (max rate \$175.00)	\$58.333	3.00	\$175.00
Project Manager (IV)	\$45.743	3.00	\$137.23
Project Engineer (III)	\$39.793	3.00	\$119.38
Engineer (II)	\$27.947	3.00	\$83.84
Jr. Engineer (I)	\$25.747	3.00	\$77.24
Construction Management Director	\$47.177	3.00	\$141.53
Assistant Construction Management Director	\$41.683	3.00	\$125.05
Associate, Construction	\$41.383	3.00	\$124.15
Sr. Registered Surveyor	\$49.750	3.00	\$149.25
Registered Surveyor	\$31.740	3.00	\$95.22
Associate, Landscape	\$53.410	3.00	\$160.23
Environmental Administrator	\$41.310	3.00	\$123.93
Sr. Landscape Architect	\$47.277	3.00	\$141.83
Landscape Architect	\$36.567	3.00	\$109.70
Associate, Planning	\$49.037	3.00	\$147.11
Director of Planning	\$43.580	3.00	\$130.74
Planner	\$27.603	3.00	\$82.81
<hr/>			
<u>Technicians</u> – (Drafters, Graphic Artists, Computer, Surveyors, Cartographics, Construction Inspectors, etc.)			
CADD Technician Manager	\$32.700	3.00	\$98.10
CADD Technician	\$24.840	3.00	\$74.52
Survey Crew	\$55.083	3.00	\$167.41
Senior Inspector	\$34.953	3.00	\$104.86
Inspector	\$19.613	3.00	\$58.84
Survey Coordinator	\$26.193	3.00	\$78.58
Environmental Specialist	\$24.357	3.00	\$73.07
Landscape CADD Technician	\$23.310	3.00	\$69.93
Jr. Planner	\$22.440	3.00	\$67.32
<hr/>			
<u>Office Support</u>			
Clerical	\$23.157	3.00	\$69.47

EXHIBIT B
MPA Architects, Inc.

Employer Category	Raw Salary Hourly Rates	Raw Salary Hourly Rates (With Overhead Factor)	
<u>Professionals</u> – (Engineers, Architects, Planners, Economists, Scientists, Hydrologists, Hydrogeologists, Geologists, etc.)			
	Raw Salary	Overhead Factor	Hourly Rate
Principal	\$87.750	2.93	\$257.10
Sr. Architect	\$68.010	2.93	\$199.26
<u>Technicians</u> – (Drafters, Graphic Artists, Computer, Surveyors, Cartographics, Construction Inspectors, etc.)			
CADD Technician	\$51.930	2.93	\$152.15
Field Representative	\$40.360	2.93	\$118.25
<u>Office Support</u>			
Administrative	\$39.320	2.93	\$115.20
Clerical	\$18.850	2.93	\$55.23

EXHIBIT B
RADISE International

Employer Category	Raw Salary Hourly Rates	Raw Salary Hourly Rates (With Overhead Factor)	
<u>Professionals</u> – (Engineers, Architects, Planners, Economists, Scientists, Hydrologists, Hydrogeologists, Geologists, etc.)			
	Raw Salary	Overhead Factor	Hourly Rate
Project Manager	\$56.970	2.98	\$169.84
Senior Engineer	\$45.050	2.98	\$134.31
Project Engineer	\$36.490	2.98	\$108.79
Engineer (II)	\$24.040	2.98	\$71.67
<u>Technicians</u> – (Drafters, Graphic Artists, Computer, Surveyors, Cartographics, Construction Inspectors, etc.)			
Senior Engineering Technician	\$25.500	2.98	\$76.02
CADD Technician	\$17.950	2.98	\$53.51
<u>Office Support</u>			
Clerical/Administrative Assistant	\$16.500	2.98	\$49.19

EXHIBIT C

CONSULTING SERVICES INVOICE FORMAT

Bill To: City of Delray Beach
434 S. Swinton Ave.
Delray Beach, FL 33444

Invoice # _____

Invoice Date: _____

Service Auth. # _____

City Purchase Order # _____

City Project Number: _____

Remit To: _____

City Project Title: _____
For Professional Services for Period Ending: _____

Project Status Summary Paragraph (Description of Services Provided): _____

Insert Status Summary / Description of Services

LABOR

<u>Class</u>	<u>Name</u>	<u>Rate</u>	<u>Hours</u>	<u>Amount</u>
Principal				\$0.00
Sr. Engineer				\$0.00
Engineer				\$0.00
Cadd Designer				\$0.00
Sr. Engineering Tech				\$0.00
Sr. Inspector				\$0.00
Clerical				\$0.00
Subtotal Labor				\$0.00

SUBCONSULTANTS (Must attach copies of backup invoices)

	<u>Amount</u>
Insert Name of Subconsultant	\$0.00
Insert Name of Subconsultant	\$0.00
Subtotal Subconsultants	\$0.00

REIMBURSABLE/OUT-OF-POCKET EXPENSES (Must attach copies of backup)

	<u>Amount</u>
Postage	\$0.00
Printing	\$0.00
Subtotal Expenses	\$0.00

<u>TOTAL AMOUNT DUE THIS INVOICE:</u>	<u>\$0.00</u>
--	----------------------

EXHIBIT C (page 2)

Bill To: City of Delray Beach
434 S. Swinton Ave.
Delray Beach, FL 33444

Invoice # _____

Invoice Date: _____

Service Auth. # _____

City Purchase Order # _____

City Project Number: _____

Remit To: _____

City Project Title: _____

For Professional Services for Period Ending: _____

COST SUMMARY (Must match cost breakdown in Service Authorization)

<u>Phase or Task Number</u>	<u>Phase or Task Description</u>	<u>Amount</u>
Phase I or Task 1	(Insert Description of Phase or Task)	
	Contract Amount	\$0.00
	Amount Earned This Period	\$0.00
	Amount Previously Earned	\$0.00
	Amount Remaining	\$0.00
Phase II or Task 2	(Insert Description of Phase or Task)	
	Contract Amount	\$0.00
	Amount Earned This Period	\$0.00
	Amount Previously Earned	\$0.00
	Amount Remaining	\$0.00
Phase III or Task 3	(Insert Description of Phase or Task)	
	Contract Amount	\$0.00
	Amount Earned This Period	\$0.00
	Amount Previously Earned	\$0.00
	Amount Remaining	\$0.00
Phase IV or Task 4	(Insert Description of Phase or Task)	
	Contract Amount	\$0.00
	Amount Earned This Period	\$0.00
	Amount Previously Earned	\$0.00
	Amount Remaining	\$0.00
Phase V or Task 5	(Insert Description of Phase or Task)	
	Contract Amount	\$0.00
	Amount Earned This Period	\$0.00
	Amount Previously Earned	\$0.00
	Amount Remaining	\$0.00

EXHIBIT C (page 3)

Bill To: City of Delray Beach
434 S. Swinton Ave.
Delray Beach, FL 33444

Invoice # _____

Invoice Date: _____

Service Auth. # _____

City Purchase Order # _____

City Project Number: _____

Remit To: _____

City Project Title: _____

For Professional Services For Period Ending: _____

<u>Phase or Task Number</u>	<u>Phase or Task Description</u>	<u>Amount</u>
Phase VI or Task 6	(Insert Description of Phase or Task)	
	Contract Amount	\$0.00
	Amount Earned This Period	\$0.00
	Amount Previously Earned	\$0.00
	Amount Remaining	\$0.00
Phase VII or Task 7	(Insert Description of Phase or Task)	
	Contract Amount	\$0.00
	Amount Earned This Period	\$0.00
	Amount Previously Earned	\$0.00
	Amount Remaining	\$0.00
Phase VIII or Task 8	(Insert Description of Phase or Task)	
	Contract Amount	\$0.00
	Amount Earned This Period	\$0.00
	Amount Previously Earned	\$0.00
	Amount Remaining	\$0.00
<u>TOTAL CONTRACT COSTS</u>		
	Total Contract Amount	\$0.00
	Total Amount Earned This Period	\$0.00
	Total Amount Previously Earned	\$0.00
	Total Amount Remaining	\$0.00

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CALVI-2

OP ID: IG

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/26/2015

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

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

PRODUCER Brown & Brown of Florida, Inc. 1201 W Cypress Creek Rd # 130 P.O. Box 5727 Ft. Lauderdale, FL 33310-5727 Eric Martin Woodling		CONTACT NAME: PHONE (A/C, No, Ext): 954-776-2222 FAX (A/C, No): 954-776-4446 E-MAIL ADDRESS:		
INSURED Calvin, Giordano & Associates, Inc. Attn: Dennis Giordano 1800 Eller Drive #600 Ft. Lauderdale, FL 33316		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A : Hartford Fire Insurance Co.		19682
		INSURER B : American Guar & Liab Ins Co		26247
		INSURER C : Twin City Fire Ins. Co.		29459
		INSURER D : Landmark American Ins. Co.		33138
		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 INSD	SUBR YVVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X		21UUNLK3645	01/01/2015	01/01/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 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 Emp Ben. \$ 1,000,000
	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			21UENZE9789	01/01/2015	01/01/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			AUC594612805	01/01/2015	01/01/2016	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
C	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	N/A	21WBNO3209	01/01/2015	01/01/2016	<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
D	Professional Liab Claims Made			LHR753020 RETRO DATE 8/27/1959	08/27/2015	08/27/2016	Per/Agg: 2,000,000 Retention 200,000

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

Proj: 2012 General Engineering Consultants Services Agreement P/N 12-057.
The City of Delray Beach and the Consultant are listed as the additional insured as respects General Liability if required by written contract.
General Liability coverage is primary and non-contributory. 30 days notice of cancellation applies except 10 days for non-payment.

CERTIFICATE HOLDER

CANCELLATION

CITY OF DELRAY BEACH City of Delray Beach 434 South Swinton Ave Delray Beach, FL 33444	DELRAYB 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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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 stock insurance company member of The Hartford 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" 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.

- d. 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".

e. Incidental Medical Malpractice

- (1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:

- (a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and
- (b) You are not engaged in the business or occupation of providing such services.

- (2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

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" or "property damage" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, 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:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of 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;
- (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"; or

- (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 51 feet long; and
 - (b) Not being used to carry persons 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;
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or
- (6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

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 7 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) and (4) of this exclusion do not apply to "property damage" arising from the use of elevators.

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

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at the job site.

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.

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. Employment-Related Practices

"Bodily injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

r. Asbestos

- (1) "Bodily injury" or "property damage" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
 - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or

kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";

- (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
- (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

Damage To Premises Rented To You – Exception For Damage By Fire, Lightning Or Explosion

Exclusions c. through h. and j. through n. do not apply to damage by fire, lightning or explosion 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" arising out of an offense committed by, at the direction or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral, written or electronic publication 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, written or electronic publication 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.

i. Infringement Of Intellectual Property Rights

"Personal and advertising injury" arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of:

- (1) Copyright;

- (2) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

- (3) Title of any literary or artistic work.

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 17.a., b. and c. of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not 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 metatags, 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. Internet Advertisements And Content Of Others

"Personal and advertising injury" arising out of:

- (1) An "advertisement" for others on your web site;
- (2) Placing a link to a web site of others on your web site;
- (3) Content, including information, sounds, text, graphics, or images from a web site of others displayed within a frame or border on your web site; or
- (4) Computer code, software or programming used to enable:
 - (a) Your web site; or
 - (b) The presentation or functionality of an "advertisement" or other content on your web site.

q. Right Of Privacy Created By Statute

"Personal and advertising injury" arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act.

r. Violation Of Anti-Trust law

"Personal and advertising injury" arising out of a violation of any anti-trust law.

s. Securities

"Personal and advertising injury" arising out of the fluctuation in price or value of any stocks, bonds or other securities.

t. Discrimination Or Humiliation

"Personal and advertising injury" arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

u. Employment-Related Practices

"Personal and advertising injury" to:

- (1) A person arising out of any "employment-related practices"; or

- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

v. Asbestos

- (1) "Personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
 - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
 - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
 - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

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:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within three years of the date of the accident; and
- (3) 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 \$1,000 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 appeal bonds or 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 \$500 a day because of time off from work.

- e. All costs taxed against the insured in the "suit".
- 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:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. 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. Employees and Volunteer workers

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 that "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 Paragraphs (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph (d) does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such 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. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Temporary Custodians of Your Property

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. Legal Representative If You Die

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.

e. Unnamed Subsidiary

Any subsidiary, and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of the Coverage Part.

The insurance afforded herein for any subsidiary not named in this Coverage Part as a named insured does not apply to injury or damage with respect to which an insured under this Coverage Part is also an insured under another policy or would be an insured under such policy but for its termination or the exhaustion of its limits of insurance.

3. Newly Acquired or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, 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 180th 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.

4. Mobile Equipment

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The following person(s) or organization(s) are an additional insured when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement.

A person or organization is an additional insured under this provision only for that period of time required by the contract or agreement.

However, no such person or organization is an insured under this provision if such person or organization is included as an insured by an endorsement issued by us and made a part of this Coverage Part.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor 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 that the vendor would have in the absence of the contract or agreement;

- (b) Any express warranty unauthorized by you;
 - (c) Any physical or chemical change in the product made intentionally by the vendor;
 - (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - (e) Any failure to make 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;
 - (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - (g) 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; or
 - (h) "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:
 - (i) The exceptions contained in Sub-paragraphs (d) or (f); or
 - (ii) 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.
- (2) This insurance does not apply to 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.

b. Lessors of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.
- (2) With respect to the insurance afforded to these additional insureds this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

c. Lessors of Land or Premises

Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

With respect to the insurance afforded these additional insureds the following additional exclusions apply:

This insurance does not apply to:

- 1. Any "occurrence" which takes place after you cease to lease that land; or
- 2. Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers or Surveyors

Any architect, engineer, or surveyor, 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:

- (1) In connection with your premises; or
- (2) In the performance of your ongoing operations performed by you or on your behalf.

With respect to the insurance afforded these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

- 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.

e. Permits Issued By State Or Political Subdivisions

Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

With respect to the insurance afforded these additional insureds, this insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

Any other person or organization who is not an insured under Paragraphs a. through e. above, 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:

- (1) In the performance of your ongoing operations;
- (2) In connection with your premises owned by or rented to you; or
- (3) In connection with "your work" and included within the "products-completed operations hazard", but only if
 - (a) The written contract or agreement requires you to provide such coverage to such additional insured; and
 - (b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (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.

The limits of insurance that apply to additional insureds under this provision is described in Section III – Limits Of Insurance.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in Section IV – Commercial General Liability Conditions.

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 Most We will Pay

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. General Aggregate Limit

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. Products-Completed Operations Aggregate Limit

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. Personal and Advertising Injury Limit

Subject to 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. Each Occurrence Limit

Subject to 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. Damage To Premises Rented To You Limit

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

7. Medical Expense Limit

Subject to 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.

8. How Limits Apply To Additional Insureds

If you have agreed in a written contract or written agreement that another person or organization be

added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- a. The limits of insurance specified in the written contract or written agreement; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

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. Notice Of Occurrence Or Offense

You or any additional insured 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. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

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. Obligations At The Insureds Own Cost

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.

e. Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs a. and b. apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This duty applies separately to you and any additional insured.

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 b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

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;

(4) Aircraft, Auto Or Watercraft

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;

(5) Property Damage to Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion j. of Section I – Coverage A – Bodily Injury And Property Damage Liability;

(6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

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.

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

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

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

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

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

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

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

a. Transfer of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, 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.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

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 the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper; or

- b. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

- a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or
- b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "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 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 a. above;
 - (2) The activities of a person whose home is in the territory described in 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 the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory or in a settlement we agree to.

7. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

8. "Employment-Related Practices" means:

- a. Refusal to employ a person;
- b. Termination of a person's employment; or
- c. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at a person.

9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

11. "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:

- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
- b. Your fulfilling the terms of the contract or agreement.

12. "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, lightning or explosion to premises while

rented to you or temporarily occupied by you with permission of the owner is subject to the Damage to Premises Rented To You Limit described in Section III – Limits of Insurance;

- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement 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, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement 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.

However, 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; or
- (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.

13. "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".

14. "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".

15. "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 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 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, of at least 1,000 pounds gross vehicle weight, 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.

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "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, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

e. Oral, written or electronic publication of material that violates a person's right of privacy;

f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";

g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or

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

18. "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.

19. "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.

20. "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.

As used in this definition, computerized or electronically stored data, programs or software are not tangible property. Electronic data means information, facts or programs:

- a. Stored as or on;
- b. Created or used on; or
- c. 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.

21. "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.

22. "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.

23. "Volunteer worker" means a person who

- a. Is not your "employee";
- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
- (2) The providing of or failure to provide warnings or instructions.