

## AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into this 18<sup>th</sup> day of April, 2024, by and between the **CITY OF MANTECA**, a public body, corporate and politic ("City") and Sanderson Bellecci Company, a California corporation ("Consultant").

### RECITALS

A. Consultant is specially trained, experienced, and competent to perform the professional services required by this Agreement.

B. Consultant possesses the skill, experience, ability, background, certification, and knowledge to provide the services described in this Agreement on the terms and conditions specified herein.

C. City desires to retain Consultant to render the professional services set forth in this Agreement.

### AGREEMENT

1. Scope of Services. Consultant shall perform the engineering design and environmental services described in the attached Attachment 1 that is incorporated by this reference, and pursuant to the Proposal submitted by Consultant dated January 16, 2024, negotiated Cost Proposal dated March 13, 2024, and attached hereto as Attachment 1. Consultant shall provide these services at the time, place, and in the manner specified in Attachment 1, subject to the direction of the City through its staff that may be provided from time to time. Performance of the engineering design and environmental services is sometimes referred to herein as "the Project."

2. Work Through City Staff. Consultant shall perform its services pursuant to this Agreement solely through City staff. No communications, information or documentations shall be made directly to any applicant to the City without the prior written consent of the City. This shall not apply to the sole request of information or clarification of information by Consultant from the applicant. All requests shall be noted to City in an expeditious manner.

3. Time of Performance. Consultant's services will commence upon execution of this Agreement and shall be completed in accordance with the Schedule of Activities, attached hereto as Attachment 2. All work shall be completed no later than December 31, 2025. Failure to submit work products in accordance with the Schedule of Activities may result in the City withholding progress payments. Repeated failure to complete work products in accordance with the Schedule of Activities may result in a reduction of the total compensation provided for in Section 4 herein.

4. Compensation. Without additional authorization from the City, compensation to be paid to Consultant shall not exceed Two Hundred Sixty Thousand Six Hundred Thirty

DOLLARS (\$260,630.00). Payment by City under this Agreement shall not be deemed a waiver of any defects, even if those defects were known to the City at the time of payment.

5. Method of Payment. Consultant shall submit monthly billings to City specifying and describing the work performed during the preceding month. Consultant's bills shall include a brief description of the services performed, the date the services were performed, the number of hours expended and by whom, and a description of any reimbursable expenditures. Full payment of each task will only be made at such time as each task is completed.

City shall pay Consultant no later than 30 days after approval of the monthly invoice by City staff. Payments may be delayed by City if Consultant fails to provide services in accordance with the Schedule of Activities, unless the City has provided prior written consent to any delay in the schedule.

6. Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, the term "Extra Work" means any work that is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the time of execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without the City's prior written authorization.

7. Termination. This Agreement may be terminated by the City immediately for cause, or by either party without cause upon 15 days' prior written notice of termination. Upon termination, Consultant shall be entitled to compensation for services performed up to the effective date of termination upon submittal of an invoice for same.

8. Ownership of Documents; Confidentiality.

A. All plans, studies, documents, and other writings prepared by and for Consultant, its officers, employees, agents, and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of City upon payment to Consultant for such work. City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and other writings to City upon written request by City. Consultant shall not be responsible for any unauthorized modification or use of such information for other than its intended purpose.

B. All memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other documents and data, either created by or provided to Consultant in connection with the performance of this Agreement, shall be held confidential by Consultant. These materials shall not, without the City's prior written consent, be used by Consultant for any purposes other than the performance of the services under this Agreement. Nor shall these materials be disclosed to any person or entity not connected with the performance of services under this Agreement. Nothing furnished to Consultant that is otherwise known to Consultant, or is generally known, or has become known to the related profession shall be deemed confidential. Consultant shall not use City's name or insignia, photographs relating to the Project for which Consultant's services are

rendered, or any publicity pertaining to the Consultant's services under this Agreement in any magazine, trade paper, newspaper, television or radio production, or other similar medium without the City's prior written consent.

9. Consultant's Books and Records.

A. Consultant shall maintain all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to City, for a minimum period of three years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement.

B. Consultant shall maintain all records that document performance under this Agreement for a minimum period of three years, or for any longer period required by law, from the date of termination or completion of this Agreement.

C. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at any time during regular business hours, upon written request by the City Manager, City Attorney, City Auditor, or a designated representative of any of these officers. Copies of such documents shall be provided to City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address specified in Section 16 of this Agreement.

D. Where City has reason to believe that records or documents may be lost or discarded due to the dissolution or termination of Consultant's business, City may, by written request, require that custody of the records be given to the City and that the records and documents be maintained in City Hall. Access to these records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.

10. Independent Contractor. In the performance of the work and services required by this Agreement, Consultant shall act as and be an independent contractor and not an agent, or employee of the City. Consultant shall obtain no rights to retirement or other benefits that accrue to City's employees, and Consultant expressly waives any claim it may have to any such rights.

11. Interest of Consultant.

A. Consultant represents that neither it nor any employee has any investment or interest in real property, and shall not acquire any such interest, direct or indirect, within the area covered by this Agreement, or any other source of income, interest in real property, or investment that would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further represents that, in the performance of its duties hereunder, no person having any such interest shall perform any services under this Agreement.

B. Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

- (1) will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of the City, or of any City official, other than normal Agreement monitoring; and
- (2) possesses no authority with respect to any City decision beyond the rendition of information, advice, recommendation, or counsel. (FPPC Reg. 18700(a)(2).)

12. Professional Ability of Consultant.

A. City is relying upon the professional training and ability of Consultant to perform the services hereunder as a material inducement to enter into this Agreement. Consultant shall therefore provide skilled professional and technical personnel to perform all services under this Agreement. All work performed by Consultant shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

B. The primary provider of the services required by this Agreement shall be Daniel Leary, PE, PTOE, QSD. A list of other individuals assigned to the Project will be provided to City for its review and approval, and these individuals shall not be replaced without the City's prior written consent.

13. Compliance with Laws. Consultant shall use the customary standard of care in its profession to comply with all applicable federal, state, and local statutes, codes, ordinances, and regulations.

14. Licenses. Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance, and approvals that are legally required of Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance, and approvals that are legally required of Consultant to practice its profession.

15. Indemnification and Hold Harmless. Consultant agrees to defend, indemnify, and hold harmless the City, its officers, officials, agents, employees, and volunteers, from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all costs and expenses in connection therewith), arising out of Consultant's performance of this Agreement, or Consultant's failure to comply with any of its obligations contained in this Agreement; excluding, however, any claim arising out of the active negligence or willful misconduct of the City, its officers, agents, employees, or volunteers.

16. Insurance Requirements.

A. Job specific insurance requirements can be found on the attached Attachment 3. Other insurance provisions can be found below:

B. Endorsements. Each general liability and automobile liability insurance policy shall be with insurers possessing an A.M. Best's rating of no less than A:VII and shall be endorsed with language substantially as follows:

- (1) The City, its elected and appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the Consultant, including materials, parts, or equipment furnished in connection with such work.
- (2) The policy shall be considered primary insurance as respects the City, its elected and appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the City, including any self-insured retention the City may have, shall be considered excess insurance only and shall not contribute with it.
- (3) The insurance shall apply to each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
- (4) The insurer waives all rights of subrogation against the City, its elected and appointed officers, officials, employees, and agents.
- (5) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected and appointed officers, officials, employees, agents, or volunteers.
- (6) The insurance provided by the policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after 30 days written notice has been received by the City.
- (7) The City will not accept any endorsements that were issued in 2004. Acceptable endorsement forms are CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the City's option, Consultant shall demonstrate financial capability for payment of those deductibles or self-insured retentions.

D. Certificates of Insurance. Consultant shall provide to City certificates of insurance with original endorsements as evidence of the required insurance coverage. Certificates of insurance shall be filed with the City on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.

17. Notices. Any notice required to be given under this Agreement shall be in writing and either served personally or sent prepaid, first class mail. Any such notice shall be addressed

to the other party at the address set forth below. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to City: City of Manteca  
1001 W. Center Street  
Manteca, CA 95337  
Attention: Beshoy Demyan, PE (Senior Engineer)

If to Consultant: Sanderson Bellecci Co.  
2290 Diamond Blvd, Suite 100  
Concord, CA 94520  
Attention: Daniel Leary, PE, PTOE, QSD

18. Entire Agreement. This Agreement constitutes the complete and exclusive statement of Agreement between the City and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in their entirety by this Agreement.

19. Amendments. This Agreement may be amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.

20. Assignment and Subcontracting. The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience, and competence of Consultant. Assignments of any or all rights, duties, or obligations of the Consultant under this Agreement will be permitted only with the express written consent of the City. Consultant shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the City. If City consents to such subcontract, Consultant shall be fully responsible to City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between City and subcontractor nor shall it create any obligation on the part of the City to pay any monies due to any such subcontractor other than as may be required by law.

21. Waiver. Waiver of any breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach or default of the same or any other provision under this Agreement.

22. Severability. If any provision of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

23. Controlling Law; Venue. This Agreement and all matters relating to it shall be governed by the laws of the State of California, and any legal action relating to this Agreement shall take place in the Superior Court, County of San Joaquin.

24. Litigation Expenses and Attorneys' Fees. If either party to this Agreement commences any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.

25. Mediation. The parties agree to make a good faith attempt to resolve any disputes arising out of this Agreement through mediation prior to commencing litigation. The parties shall mutually agree upon the mediator and shall divide the costs of mediation equally. If the parties are unable to agree upon a mediator, the dispute shall be submitted to JAMS/ENDISPUTE ("JAMS") or its successor in interest. JAMS shall provide the parties with the names of five qualified mediators. Each party shall have the option to strike two of the five mediators selected by JAMS, and thereafter the mediator remaining shall hear the dispute. If the dispute remains unresolved after mediation, either party may commence litigation.

26. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy has been signed by both parties.

27. Authority to Enter Agreement. Consultant warrants that it has all requisite power and authority to conduct its business and to execute, deliver, and perform this Agreement. Each party warrants to the other that the signatories to this Agreement have the legal power, right, and authority to enter into this Agreement and to bind each party.

28. Prohibited Interests.

A. Consultant warrants that it has not employed or retained any person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has neither paid nor agreed to pay any person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For any breach or violation of this warranty, City shall have the right to rescind this Agreement without liability.

B. For the term of this Agreement, no member, officer, or employee of City, during the period of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

29. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer, and it shall not discriminate against any subcontractor, employee, or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex, or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

30. Precedence. In case of conflict between Consultant's Proposal/Consultant's attachments and the City's Agreement/City's attachments, the City's Agreement and City's attachments shall take precedence over Consultant's proposal/Consultant's attachments.

This Space Purposely Left Blank

TO EFFECTUATE THIS AGREEMENT, each of the parties has caused this Agreement to be executed by its duly authorized representative as of the date set forth in the introductory paragraph on page 1 above.

**CITY OF MANTECA:**

  
Tomi Lundgren  
City Manager

**CONSULTANT:**

Sanderson Bellecci Co.

*(Type name of Consultant/form of organization)\**

**ATTEST:**

  
Cassandra Candini-Tilton,  
Director of Legislative Services




By:

  
*(Signature)*

Daniel Leary, PE, PTOE, QSD  
Principal in Charge  
*(Type name and title)*

**COUNTERSIGNED:**


  
Shay Narayan *Carmen Busman*  
*Acting* Director of Finance

By:

*(Signature)*

*(Type name and title)*

**COUNTERSIGNED:**

  
Stephanie Van Steyn,  
Human Resources Director

Address:

2290 Diamond Blvd., Suite 100

Concord, CA 94520

Telephone: 925-685-4569

**APPROVED AS TO FORM:**

  
Daniella Green, Assistant City Attorney

**ATTACHMENT 1**

**CONSULTANT'S PROPOSAL AND COST PROPOSAL**

## **1.0 Project Initiation & Project Management**

Consultant will begin designing the Manteca Safe Routes to Schools Project by first performing the research and assessment of the City's primary goals, concerns and schedule. We have identified the following project goals from our review of the RFP, which will be discussed at the kick-off meeting: a) design for ADA compliance, b) perform field evaluations to address site conditions, c) prepare quality PS&E with bid items for each item of work as shown in the attached RFP.

The Consultant Project Manager will lead communication throughout the design process. Manteca SRTS Project elements such as design alternatives, schedule, project costs, budget, and meetings should be communicated by the Consultant to the City. We recommend regular project meetings between the design team and the City.

- Project Development Team (PDT) Meeting Every Two Weeks - City PM & Bellecci PM on MS Teams
- Page-Turn Review Meeting for each submittal
- Monthly project reporting using Vantagepoint Deltek, including project resource management tools

The design team will consult with the City Project Manager prior to communications with project stakeholders.

## **2.0 Curb Ramp Design and Street Crossing**

There are six types of curb ramp replacements to be designed:

### **2.1 Curb Ramp Replacement With Field Surveying, And Grading**

In this category of curb ramp design the Bellecci team will field survey the curb ramp location, provide a site specific layout of the curb ramp with the landing and the flares, and include detailed grading of the angle points and grade breaks within the curb ramp. The ramps were identified in this category because of an obstruction at the ramp location, or a change in elevation that may affect the ADA compliance and therefore requires a site specific design.

### **2.2 Curb Ramp Replacement w/ Field Surveying, Grading & Inlet Relocation**

This category of curb ramp is for a number of ramps that are located on Poplar Avenue, Sherman Avenue and Argonaut Street per the RFP. Poplar Avenue street corners have an 18" diameter circular drainage inlet that is within the front of the existing curb ramps and in many cases is in conflict with the reconstruction of the new curb ramp. The scope of work for the design of this category of curb ramps is similar to Type 5 above, however there is the added engineering task to design relocation of the drainage inlet. Consultant performed an initial field investigation of the curb inlets on Poplar Avenue and it appears the inlets are piped diagonally across the street towards a storm drain manhole. One method of relocating the curb ramp is to intercept the existing diagonal pipe and install a small structure, either a clean out or a small manhole, and extend a short segment of new pipe to one of

the curb returns outside of the curb ramp and install a new city standard drainage inlet. Our team would also work with the city to discuss other lower cost options for this Type 6 Ramp design.

2.3 Curb Ramp Replacement Per Caltrans Standard Details – Type 3  
(no surveying or grading required)

This category of curb ramp we'll cover ramp replacements at locations which would not require field surveying or grading for a site-specific design. Ramps that fall into this category are in a location that do not have severe slopes, adjacent walkways or obstructions, or other sidewalk configuration challenges that would require a site-specific field survey and design. Ramps in this category would be shown on the improvement plan with a note call out referencing the Caltrans standard detail, and in most cases would be a Case C curb ramp replacement. As part of the project details for the Type 3 category, there may also be a short segment of sidewalk and/or curb and gutter replacement which extends beyond the curb ramp to accommodate a compliant landing beyond the Case C ramp. This detail will be worked out with City staff during the design process.

2.4 Ramp Replacement Per Caltrans Std Details, at Rolled Curb streets – Type 11  
(no surveying or grading required)

This category of curb ramp design is nearly the same as type 3 described above. These ramps are in locations which have an existing rolled curb within the ramp area. The only difference in the engineering approach is the detailing that will be provided on the plans to address the transition from a vertical curve to a rolled curb which may require a little more concrete work by the contractor.

2.5 Curb Ramp Replacement w/ Site Specific Layout & Std Detail References – Type 4

This category of curb ramp design is similar to the type 3 described above. However these ramps have a site specific field condition, such as; an adjacent walkway, or gate, or driveway. Some of these locations have a back of walk configuration that would affect the contractor bid. These locations will not be field surveyed, but they will require site review and field measurements by an engineer to map out the horizontal anomalies adjacent to the ramp.

2.6 New Curb Extension at Corner to Accommodate ADA Compliant Ramp

This category of curb ramp replacement will require an expanded corner to fit an ADA compliant curb ramp. This category occurs at locations where the corner radius is very tight, and/or there is a power pole or some other vertical existing facility which does not allow enough room for a compliant curb ramp. At these locations there will be field surveying detailed grading and demolition notes. During preliminary design and field surveying the design team will assess whether or not this corner also requires new storm drain inlets caused by the curb extensions.

2.7 Pedestrian Hybrid Beacon

Some of the key design elements to consider when designing HAWK Hybrid Beacon Improvements:

1. Location of the Signal Pole vs existing utilities and Advance Warning Signs
2. Location of Signal Heads in relation to lane lines, Length of Mast Arm, and side streets

3. Proximity of pole to adjacent residence, noise levels and coordination with property owners
4. Pedestrian Push Button Locations in relation to ground level
5. Street Lighting at crosswalk
6. Location of Marked crosswalk and curb ramps
7. Length of left turn pocket
8. Construction schedule
9. Intersection sight distances
10. Turning Movements
11. Hybrid Beacon Operation
12. Curb Ramp Access
13. Review Lane widths
14. Red Curb for SSD
15. Advance warning signage on the main and minor streets
16. Traffic signage on mast arm
17. Signal controller and pedestal locations
18. Service point coordination with PG&E

#### 2.8 RRFB

Prepare plans for Solar powered RRFB at Moffat Blvd.

#### 2.9 Sidewalk Gap Closures

Prepare plans for sidewalk gap closures per RFP.

#### 2.8 Striping

Prepare plans for striping for the items above.

### **3.0 Development of PS&E**

Design Team will incorporate recommendations and comments from review of Preliminary Layout and Cost Estimate, to develop 50%, 95%, and Final Bid construction documents. Bellecci will work closely with City team members to resolve the various ADA design solutions. The goal of the 50% submittal is to include enough detail for City review so that there are minimal or no layout changes during the 95% and 100% design phase. Bellecci will identify and coordinate work with utility agencies for known utilities in conflict. Design CAD layout drawing xreferences will be prepared in the latest released AutoCAD version using City format. Specifications will be prepared in the City's format.

Consultant will perform land surveying and base mapping for final design, including the work to establish the project design file in CAD. As part of the base mapping Consultant will request and obtain as-built maps, including: record of surveys, topographic data, aerial mapping, and maps and plans of major utilities and proposed utilities within the project area.

The 50% submittal will include flow line grading, but some of the detailed civil grading will be completed at the 95% design stage. The technical specifications will be competed at the 50% submittal, but the measurement and payment specifications will be included at the 95%, and 100%

design level. The plans for the 50% submittal shall be detailed enough for the City to review the complete scope of work for the project along with the cost implications. Some of the civil details and grading will be further refined and/or added at the 95% design stage. Also detailed ADA grading will be included in the 95%, plans. The technical specifications will be completed at the 50% submittal, but the measurement and payment specifications will be included at the 95% design level. The specifications will be prepared in the City standard format or modified format as agreed to by the City.

#### Specifications

The specifications will be prepared in Caltrans technical specifications format, to be combined with the City upfront specifications. Consultant will provide input to the City for the upfront specifications for items

#### Permits

The Consultant shall perform work to identify and obtain necessary permits and agreements needed for project construction. The work as part of this task may include discussions with permitting agencies (i.e. utility companies, PG&E, water services, telecommunications, fiber optics) and also prepare the permit and attachments such as maps and other exhibits identify funds necessary for the permit application, and submitting the permit.

#### Submittal Process

- Deliver one set of PDF plans & specifications to each key City reviewer on the morning of the submittal date
- The design team and the key City team members will meet in-person or by video conference on the submittal day to review the plans and specs. The Design Team will perform a “page turn” and present the drawings sheet-by sheet. One Bellecci team member will record the comments from City team members.
- Following the “Page Turn Review Meeting,” City staff will still have two to three weeks to complete their review. Meanwhile the design team will have in hand most of the major comments and concerns of City Staff. Therefore, the plan production period can commence the next working day.

The implementation of “Page-Turn Meetings” into the design schedule will increase the production time of the overall project schedule, while also maintaining the momentum and continuity of the consultant design team members assigned to the Manteca SRTS project. The Consultant’s Project Manager will notify the City Project Manager whenever there are changes to the project schedule.

#### Environmental Services

Our Environmental Consultant will support the City in preparing the California Environmental Quality Act (CEQA) documentation for the Manteca SRTS project. We anticipate that the appropriate level of CEQA documentation will be a Categorical Exemption (CE). Consultant will provide support to the City for technical information, and the NOE will be filed by City.

### Quality and Completeness

The following are the City of Manteca SRTS project specific Quality Control procedures:

- *PS&E Review*: Deliverables review is performed by a PE not part of the design team. The PS&E outside review is usually performed by one of the other 8 company engineering offices, and this is performed on the second to last submittal.
- *Constructability/Bidding Review*: The constructability review is completed by our in-house Construction Manager, with an emphasis on minimizing change orders, contractor claims, and a critique of the documents from a construction perspective.
- *Inter-Discipline Review*: Verify the various disciplines involved have coordinated the design elements (civil, traffic, and other disciplines.). This category is checked by: a) implementing internal pre-submittals prior to each formal submittal to the City and b) common CAD files provided by the Prime consultant to avoid conflicts between documents.
- *Management Review/Contract Scope*: Our principal will revisit the contract scope of work for both Bellecci and our subconsultants to assure the original project approach and deliverables are followed each step of the design sequence.

Peer Reviewer - The Peer Reviewer assigned to the City of Manteca SRTS project works in our Concord Office and is separate from our team of engineers designing the project For the plan review, Robert will be checking the following key items:

- Completeness of bid items
- Neighborhood notifications and parking requirements
- Pedestrian and bicycle safety, crossings, and path of travel during construction
- Traffic handling and pedestrian access
- Pedestrian beacon pole + RRFB locations and utilities
- Grades vs ADA slopes
- Landing dimensions
- ADA path of travel

# COST ESTIMATES

---

City of Manteca

Proposal for Professional Engineering for Safe Routes to School Pedestrian Safety Improvement Project - CIP 23006

03/13/2024 - v7

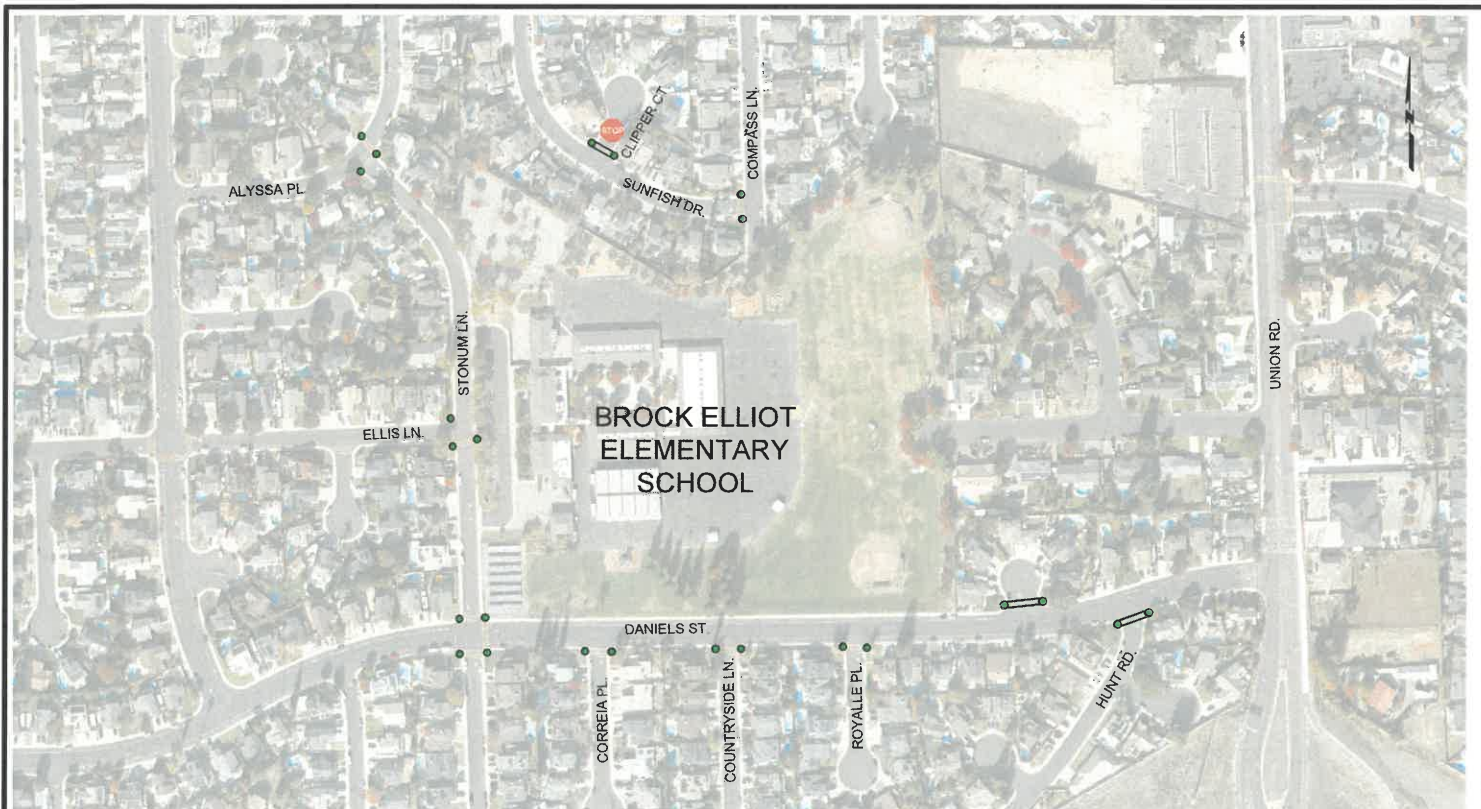


Task	Task Description	Prn Eng II	Prn Eng I	Prct Eng III	Prct Eng II	Prct Eng I / Indic Eng	Eng III	Eng II	Eng I	Asstt Eng II	Asstt Eng I	Survey Tech III	Survey Tech II	Prof Land Surv	Two-person survey crew	Three-person survey crew	Total Hours	Total Labor Costs	Environmental	ODCs	Mark Ups	Total
		\$270	\$240	\$220	\$210	\$204	\$190	\$174	\$164	\$150	\$130	\$174	\$150	\$220	\$294	\$368						
BASIC SERVICES																						
1	Project Management, Coordination & Public Outreach	10	18			44		12									84	\$17,964			\$0	\$17,964
2	Environmental Studies																0	\$0	\$5,000		\$500	\$5,500
3	Prepare Base Maps & Plan Sheets										58		36	8	40		142	\$26,060			\$0	\$26,060
4	PS&E (50%, 95%, & Utility Applications/Permits)	20	36			102	179			298	124						759	\$129,678			\$0	\$129,678
5	Final PS&E Package	6	10			26	40			70	18						170	\$29,764			\$0	\$29,764
6	Construction Support																0	TBD			\$0	TBD
		36	64	0	0	172	219	0	12	368	200	0	36	8	40	0	1155	\$203,466	\$5,000	\$0	\$500	\$208,966
GAP CLOSURES																						
7	Fishback Road Gap Closure		24				48			196			16	2	16		302	\$51,664			\$0	\$51,664
		0	24	0	0	0	48	0	0	196	0	0	16	2	16	0	302	\$51,664	\$0	\$0	\$0	\$51,664
OPTIONAL SERVICES																						
8	Printing & Expenses																0	\$0		\$2,200	\$220	\$2,420

types:

Distribution of Hours may vary during the performance of the services

## RFP EXHIBITS



- LEGEND:**
- REPLACE EXISTING CURB RAMP (24)
  - STOP INSTALL STOP AT INTERSECTION (Stopping Clipper Ct. only)
  - ▬▬▬ INSTALL/REFRESH HIGH VISIBILITY CROSSWALK  
(ladder Type per 2023 CalTrans Standard Plans Sheet A24F)

NO SCALE

APPROVED SUBJECT TO THE DATA SHOWN.  
CITY OF MANTECA AND THE UNDERSIGNED  
ARE NOT RESPONSIBLE FOR ERRORS AND  
OR OMISSIONS THAT MAY BE PRESENT ON  
THESE PLANS.



**CITY OF MANTECA**  
DEPARTMENT OF ENGINEERING  
1001 WEST CENTER STREET, MANTECA, CALIFORNIA 95337

SCALE	AS SHOWN
DESIGNED	JD
DRAWN	JD & JL
CHECKED	JD
DATE	11/07/2023

**BROCK ELLIOT  
ELEMENTARY SCHOOL  
RFP EXHIBIT**

SHEET  
**1**  
OF  
**6**



**LEGEND:**

- REPLACE EXISTING CURB RAMP (10)
- REPLACE EXISTING CURB RAMP AND MODIFY EXISTING SDI (10)
- ADD NEW CURB RAMP (1)

ADD HIGH-INTENSITY ACTIVATED CROSSWALK BEACON (HAWK) AND STREET LIGHTING. CONSULTANT RESPONSIBLE FOR FINDING PG&E SERVICE POINT AND SUBMITTING PG&E CONNECTION APPLICATION.

INSTALL YIELD SIGN AND YIELD LINE AND APPROPRIATE WARNING AND TRAFFIC SIGNAGE  
 INSTALL/REFRESH HIGH VISIBILITY CROSSWALK (ladder Type per 2023 CalTrans Standard Plans Sheet A24F)

NO SCALE

APPROVED SUBJECT TO THE DATA SHOWN. CITY OF MANTECA AND THE UNDERSIGNED ARE NOT RESPONSIBLE FOR ERRORS AND OMISSIONS THAT MAY BE PRESENT ON THESE PLANS.

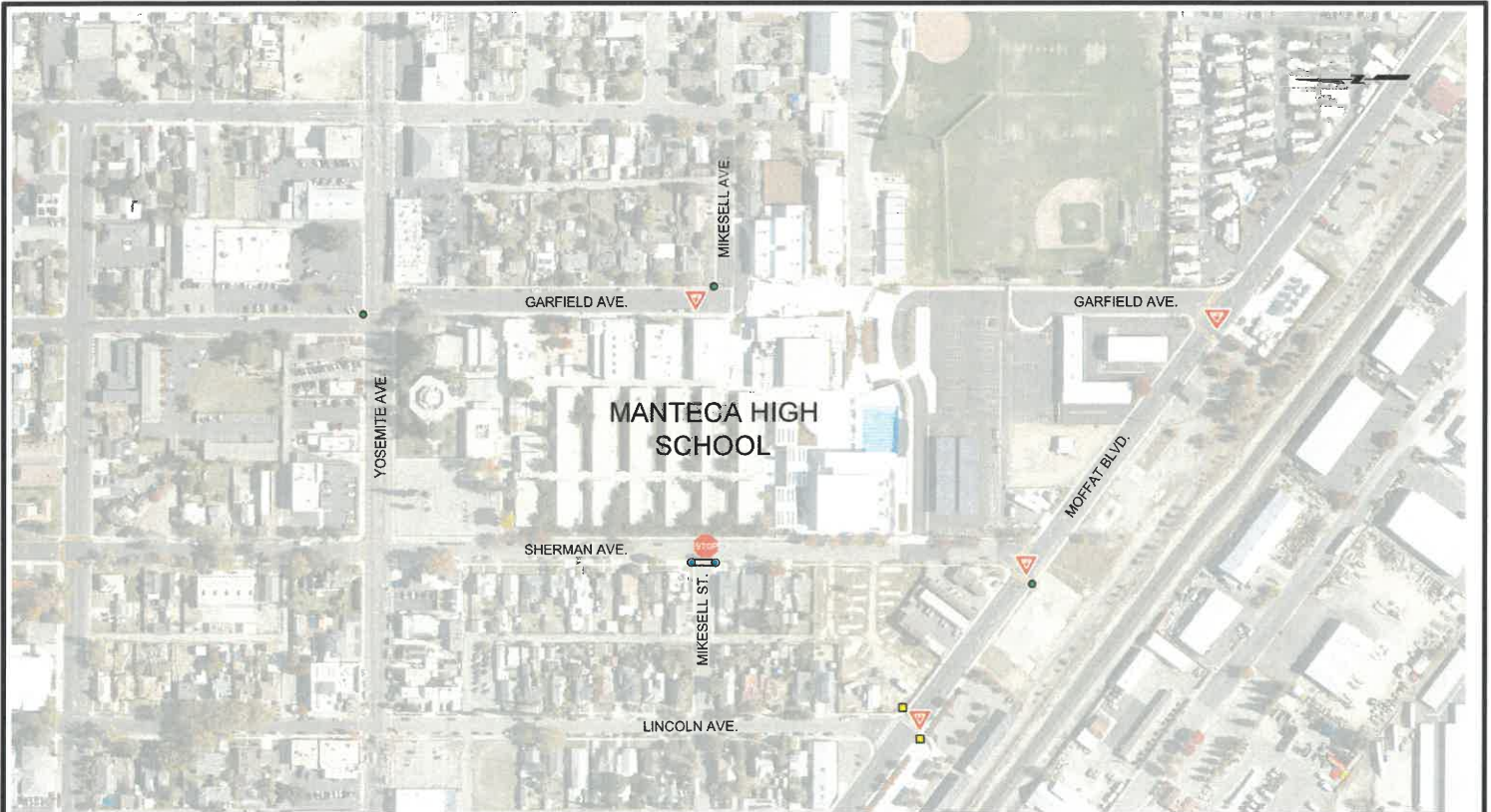


**CITY OF MANTECA**  
 DEPARTMENT OF ENGINEERING  
 1001 WEST CENTER STREET, MANTECA, CALIFORNIA 95337

DATE	BY	REV
DESIGN	ME	
PERMIT	ME	
CONTRACT	ME	
DATE	11/05/2021	

**GOLDEN WEST  
 ELEMENTARY SCHOOL  
 RFP EXHIBIT**

2  
 6 SHEETS



- LEGEND:**
- REPLACE EXISTING CURB RAMP (3)
  - REPLACE EXISTING CURB RAMP AND MODIFY EXISTING SDI (2)
  - INSTALL RECTANGULAR RAPID FLASHING BEACON (1 SYSTEM)(SOLAR-POWERED)
  - == INSTALL/REFRESH HIGH VISIBILITY CROSSWALK (ladder Type per 2023 CalTrans Standard Plans Sheet A24F)
  - ▽ INSTALL YIELD SIGN AND YIELD LINE AND APPROPRIATE WARNING AND TRAFFIC SIGNAGE
  - STOP INSTALL ALL WAY STOP AT INTERSECTION
- NO SCALE

APPROVED SUBJECT TO THE DATA SHOWN. CITY OF MANTECA AND THE UNDERSIGNED ARE NOT RESPONSIBLE FOR ERRORS AND OR OMISSIONS THAT MAY BE PRESENT ON THESE PLANS.

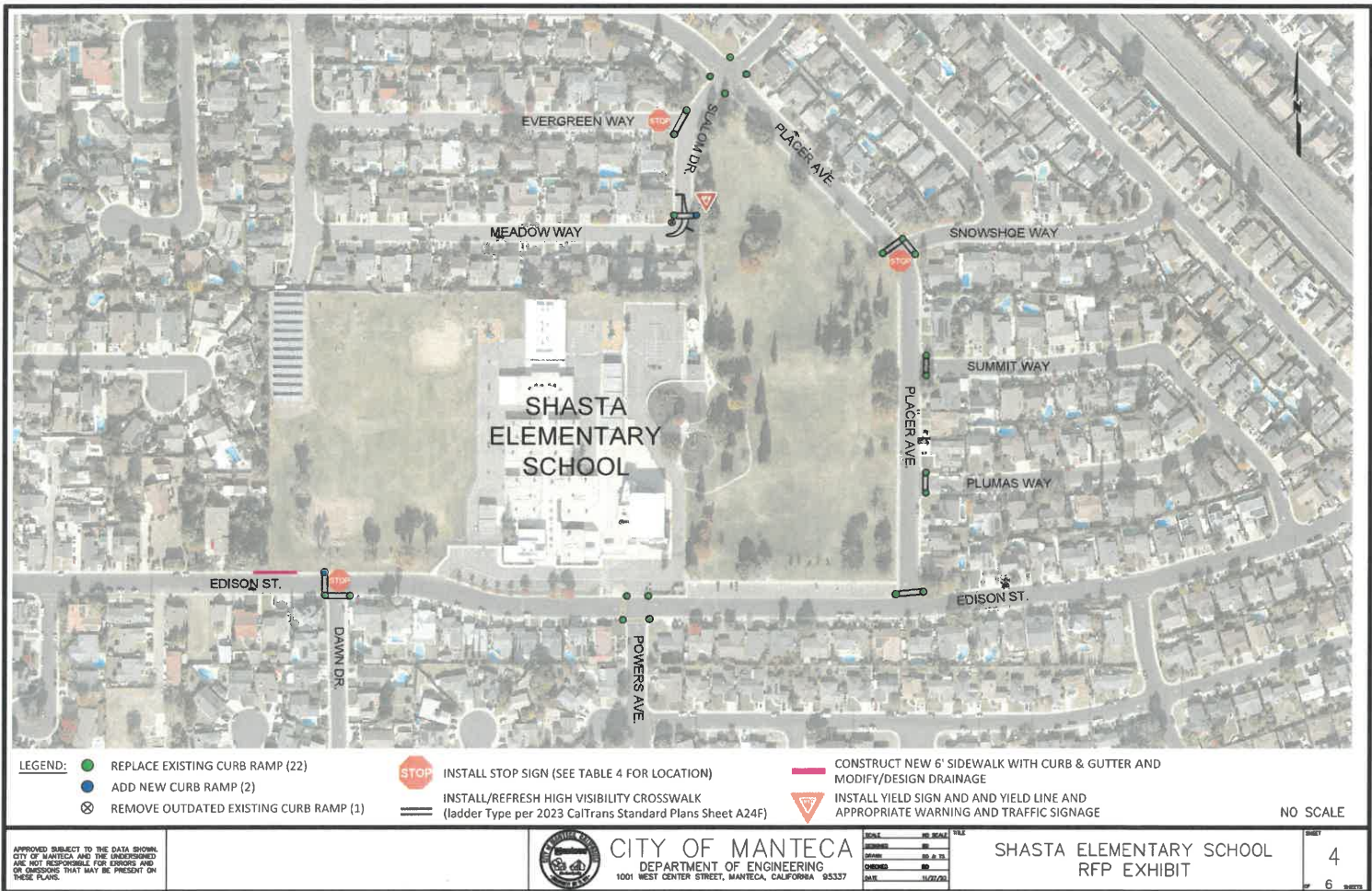


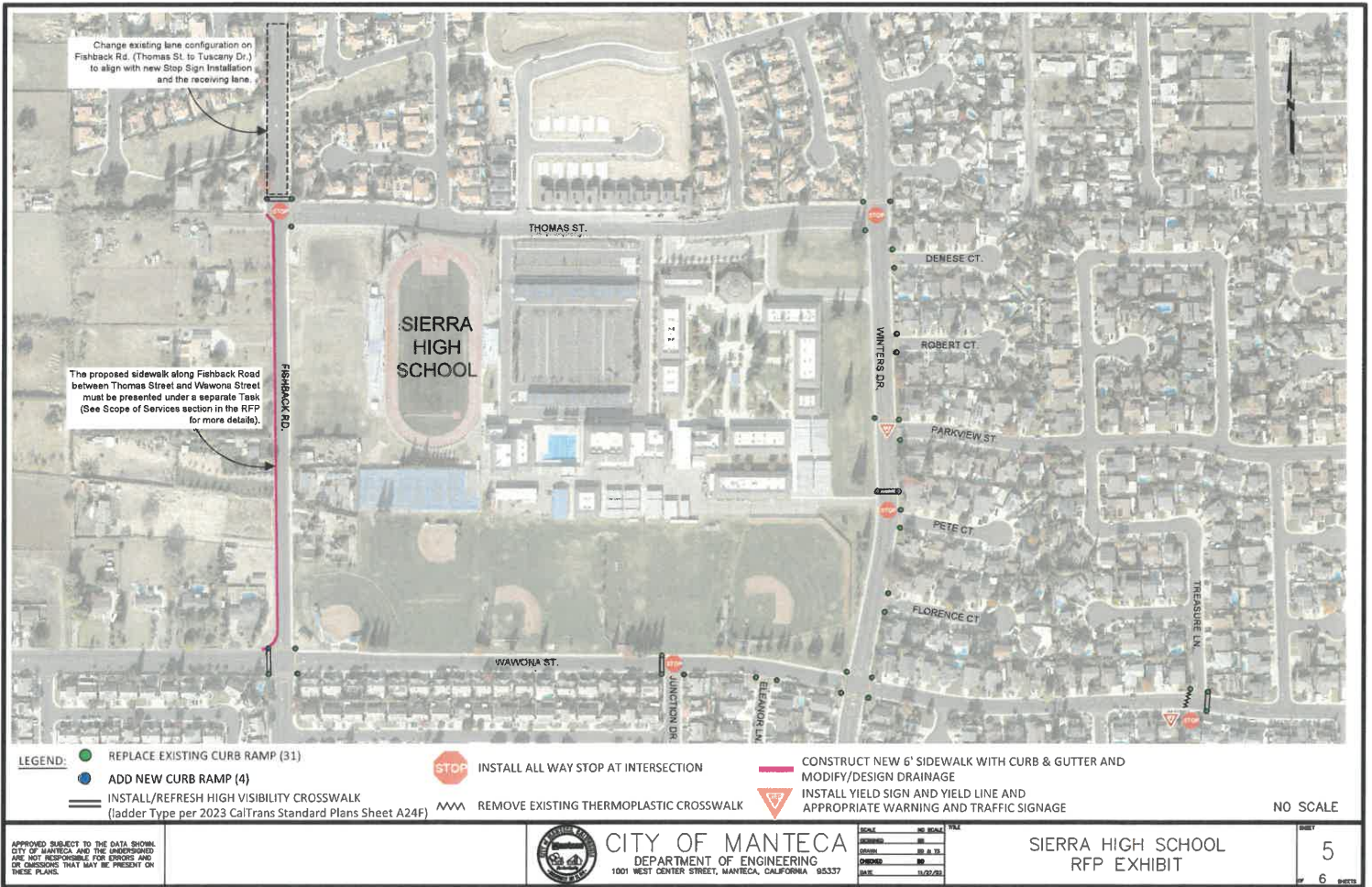
**CITY OF MANTECA**  
 DEPARTMENT OF ENGINEERING  
 1001 WEST CENTER STREET, MANTECA, CALIFORNIA 95337

SCALE	AS SHOWN
DESIGNED	BY A. J.
CHECKED	BY
DATE	11/21/23

**MANTECA HIGH SCHOOL**  
 RFP EXHIBIT

3  
 6







**LEGEND:**

- REPLACE EXISTING CURB RAMP (37)
- STOP INSTALL ALL WAY STOP AT INTERSECTION
- CONSTRUCT NEW 6' SIDEWALK
- ▽ INSTALL YIELD SIGN AND YIELD LINE AND APPROPRIATE WARNING AND TRAFFIC SIGNAGE
- = INSTALL/REFRESH HIGH VISIBILITY CROSSWALK (ladder Type per 2023 CalTrans Standard Plans Sheet A24F)

NO SCALE

APPROVED SUBJECT TO THE DATA SHOWN. CITY OF MANTECA AND THE UNDERSIGNED ARE NOT RESPONSIBLE FOR ERRORS AND OR OMISSIONS THAT MAY BE PRESENT ON THESE PLANS.



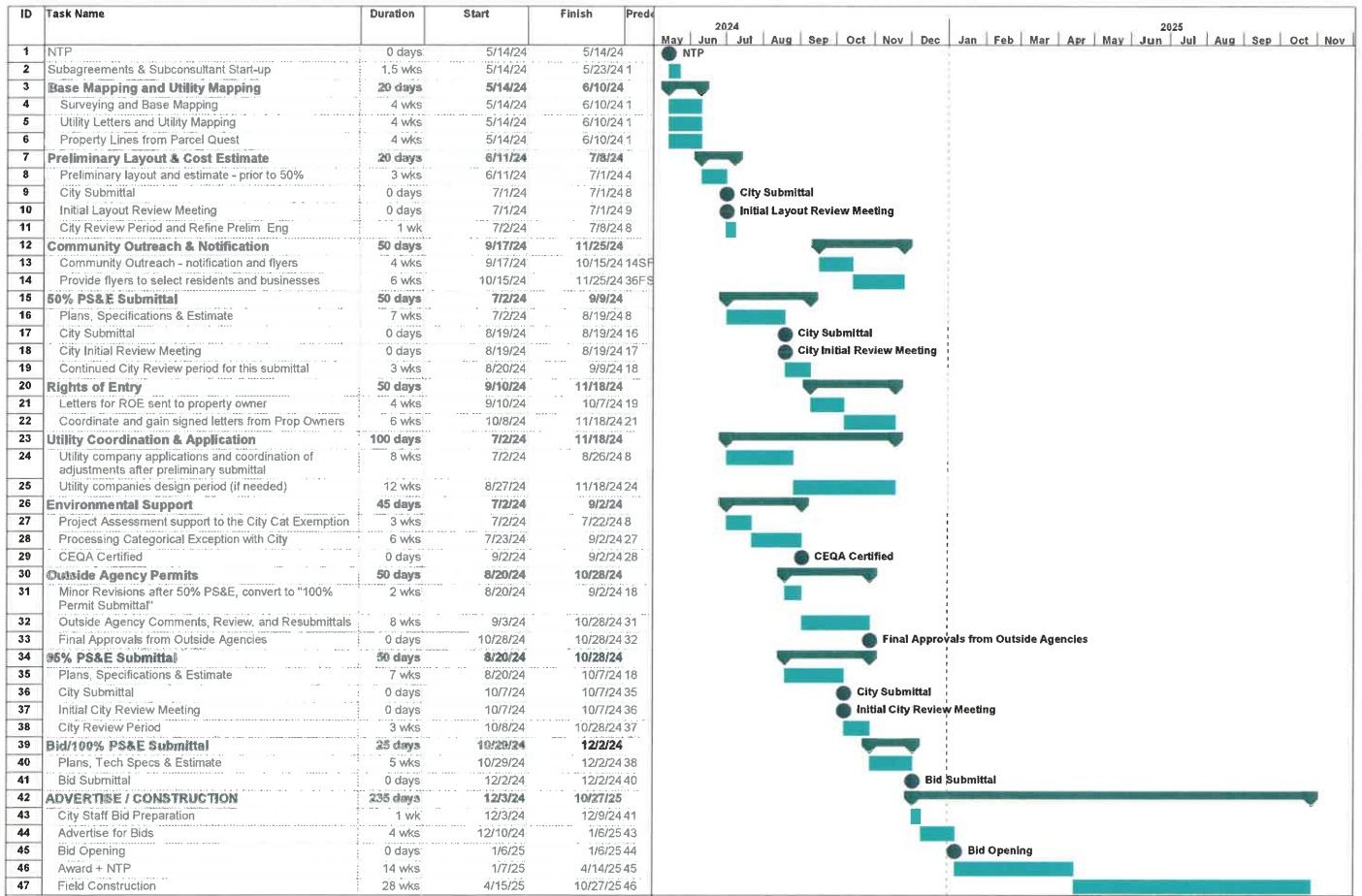
**CITY OF MANTECA**  
DEPARTMENT OF ENGINEERING  
1001 WEST CENTER STREET, MANTECA, CALIFORNIA 95337

SCALE	BY	DATE
AS SHOWN	RE	
DESIGNED	RE	10.2.23
CHECKED	RD	
DATE	01/22/24	

**STELLA BROCKMAN  
ELEMENTARY SCHOOL  
RFP EXHIBIT**

SHEET  
**6**  
OF 6 SHEETS

**ATTACHMENT 2**  
**PROJECT SCHEDULE**



**ATTACHMENT 3**

**CERTIFICATE OF LIABILITY INSURANCE**



SANDBEL-02

CTHELEN

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/21/2024

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

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

PRODUCER Billings Office Marsh McLennan Agency LLC P.O. Box 30638 Billings, MT 59107-0638	CONTACT NAME: PHONE (A/C, No, Ext): (406) 238-1900 FAX (A/C, No): (406) 245-9887 E-MAIL ADDRESS:
INSURED Sanderson Bellecci, Inc., Engineering, Inc. dba Sanderson Stewart, Bellecci & Associates, Inc. Summit Engineering Corporation 1300 North Transtech Way Billings, MT 59102	INSURER(S) AFFORDING COVERAGE INSURER A: Charter Oak Fire Insurance Company 25615 INSURER B: Phoenix Insurance Company 25623 INSURER C: Travelers Property Casualty Co of Amer 25674 INSURER D: Zurich American Insurance Company 16535 INSURER E: Travelers Casualty and Surety Company 19038 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 WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X		P-660-7W723958-COF-23	5/19/2023	5/19/2024	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
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			810-7W72070A-23-43-G	5/19/2023	5/19/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	<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 \$ 10,000	X		CUP-7W728500-23-43	5/19/2023	5/19/2024	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> Y	N/A	WC8664223-01	7/1/2023	7/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
E	Professional			105269194	4/17/2023	4/17/2024	Liability 2,000,000
E	Pollution			105269194	4/17/2023	4/17/2024	Liability 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
City of Manteca, its officers, officials, employees, agents, and volunteers are additional insureds per the attached endorsement.

## CERTIFICATE HOLDER

## CANCELLATION

City of Manteca  
1001 West Center Street; Suite E  
Manteca, CA 95337

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

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BUSINESS AUTO EXTENSION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **BUSINESS AUTO COVERAGE FORM**

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

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

### **PROVISIONS**

#### **A. BROAD FORM NAMED INSURED**

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

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

#### **B. BLANKET ADDITIONAL INSURED**

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

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which

this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

#### **C. EMPLOYEE HIRED AUTO**

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

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

2. The following replaces Paragraph **b.** in **B.5., Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

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

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your

## COMMERCIAL AUTO

permission, while performing duties related to the conduct of your business.

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

### D. EMPLOYEES AS INSURED

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

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

### E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph A.2.a.(2), of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

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

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

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

### F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS

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

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction, for Covered Autos Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

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

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

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

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

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

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

(b) This insurance is excess over any valid and collectible other insurance available to the "insured" whether primary, excess, contingent or on any other basis.

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

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

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

#### G. WAIVER OF DEDUCTIBLE – GLASS

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

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

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

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

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

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

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

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

#### J. PERSONAL PROPERTY

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

##### Personal Property

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

- (1) Owned by an "insured"; and

- (2) In or on your covered "auto".

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

No deductibles apply to this Personal Property coverage.

#### K. AIRBAGS

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

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

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
  - b. The airbags are not covered under any warranty; and
  - c. The airbags were not intentionally inflated.
- We will pay up to a maximum of \$1,000 for any one "loss".

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

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

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

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

#### M. BLANKET WAIVER OF SUBROGATION

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

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

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

## COMMERCIAL AUTO

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

### **N. UNINTENTIONAL ERRORS OR OMISSIONS**

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

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

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **XTEND ENDORSEMENT FOR ARCHITECTS, ENGINEERS AND SURVEYORS**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY COVERAGE PART**

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

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li><b>A.</b> Non-Owned Watercraft – 75 Feet Long Or Less</li> <li><b>B.</b> Who Is An Insured – Unnamed Subsidiaries</li> <li><b>C.</b> Who Is An Insured – Retired Partners, Members, Directors And Employees</li> <li><b>D.</b> Who Is An Insured – Employees And Volunteer Workers – Bodily Injury To Co-Employees, Co-Volunteer Workers And Retired Partners, Members, Directors And Employees</li> <li><b>E.</b> Who Is An Insured – Newly Acquired Or Formed Limited Liability Companies</li> <li><b>F.</b> Blanket Additional Insured – Controlling Interest</li> <li><b>G.</b> Blanket Additional Insured – Mortgagees, Assignees, Successors Or Receivers</li> </ul> | <ul style="list-style-type: none"> <li><b>H.</b> Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Premises</li> <li><b>I.</b> Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations</li> <li><b>J.</b> Incidental Medical Malpractice</li> <li><b>K.</b> Medical Payments – Increased Limit</li> <li><b>L.</b> Amendment Of Excess Insurance Condition – Professional Liability</li> <li><b>M.</b> Blanket Waiver Of Subrogation – When Required By Written Contract Or Agreement</li> <li><b>N.</b> Contractual Liability – Railroads</li> </ul> |
|---|---|

### **PROVISIONS**

#### **A. NON-OWNED WATERCRAFT – 75 FEET LONG OR LESS**

1. The following replaces Paragraph (2) of Exclusion **g.**, **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

(2) A watercraft you do not own that is:

- (a) 75 feet long or less; and
  - (b) Not being used to carry any person or property for a charge;
2. The following replaces Paragraph 2.e. of **SECTION II – WHO IS AN INSURED**:
    - e. Any person or organization that, with your express or implied consent, either

uses or is responsible for the use of a watercraft that you do not own that is:

- (1) 75 feet long or less; and
- (2) Not being used to carry any person or property for a charge;

#### **B. WHO IS AN INSURED – UNNAMED SUBSIDIARIES**

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

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and

## COMMERCIAL GENERAL LIABILITY

- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. A limited liability company;
  - b. An organization other than a partnership, joint venture or limited liability company; or
  - c. A trust;
- as indicated in its name or the documents that govern its structure.

### C. WHO IS AN INSURED – RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2. of **SECTION II – WHO IS AN INSURED:**

Any person who is your retired partner, member, director or "employee" that is performing services for you under your direct supervision, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, no such retired partner, member, director or "employee" is an insured for:

#### (1) "Bodily injury":

- (a) To you, to your current partners or members (if you are a partnership or joint venture), to your current members (if you are a limited liability company) or to your current directors;
- (b) To the spouse, child, parent, brother or sister of that current partner, member or director as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your retired partners, members, directors or "employees", other than a doctor. Any such retired partners, members, directors or "employees" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

#### (2) "Personal injury":

- (a) To you, to your current or retired partners or members (if you are a partnership or joint venture), to your current or retired members (if you are a limited liability company), to your other current or retired directors or "employees" 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 current or retired partner, member, director, "employee" or "volunteer worker" as a consequence of Paragraph (2)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (2)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

#### (3) "Property damage" to property:

- (a) Owned, occupied or used by; or
- (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 retired partners, members or directors, your current or retired "employees" or "volunteer workers", any current partner or member (if you are a partnership or joint venture), or any current member (if you are a limited liability company) or current director.

**D. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – BODILY INJURY TO CO-EMPLOYEES, CO-VOLUNTEER WORKERS AND RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES**

The following is added to Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Paragraphs (1)(a), (b) and (c) above do not apply to "bodily injury" to a current or retired co-"employee" while in the course of the co-"employee's" employment by you or performing duties related to the conduct of your business, or to "bodily injury" to your other "volunteer workers" or retired partners, members or directors while performing duties related to the conduct of your business.

**E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED LIMITED LIABILITY COMPANIES**

The following replaces Paragraph 3. of SECTION II – WHO IS AN INSURED:

3. Any organization you newly acquire or form, other than a partnership or joint venture, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, 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:

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

- (2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it;

- 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.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such

organization will be deemed to be designated in the Declarations as:

- a. A limited liability company;
  - b. An organization other than a partnership, joint venture or limited liability company; or
  - c. A trust;
- as indicated in its name or the documents that govern its structure.

**F. BLANKET ADDITIONAL INSURED – CONTROLLING INTEREST**

1. The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that has financial control of you is an insured with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that arises out of:

- a. Such financial control; or
- b. Such person's or organization's ownership, maintenance or use of premises leased to or occupied by you.

The insurance provided to such person or organization does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

2. The following is added to Paragraph 4. of SECTION II – WHO IS AN INSURED:

This paragraph does not apply to any premises owner, manager or lessor that has financial control of you.

**G. BLANKET ADDITIONAL INSURED – MORTGAGEES, ASSIGNEES, SUCCESSORS OR RECEIVERS**

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

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

- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed,

## COMMERCIAL GENERAL LIABILITY

subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of the premises for which that mortgagee, assignee, successor or receiver is required under that contract or agreement to be included as an additional insured on this Coverage Part.

The insurance provided to such mortgagee, assignee, successor or receiver is subject to the following provisions:

- a. The limits of insurance provided to such mortgagee, assignee, successor or receiver will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such person or organization does not apply to:
  - (1) Any "bodily injury" or "property damage" that occurs, or any "personal and advertising injury" caused by an offense that is committed, after such contract or agreement is no longer in effect; or
  - (2) Any "bodily injury", "property damage" or "personal and advertising injury" arising out of any structural alterations, new construction or demolition operations performed by or on behalf of such mortgagee, assignee, successor or receiver.

### H. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO PREMISES

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

Any governmental entity that has issued a permit or authorization with respect to premises owned or occupied by, or rented or loaned to, you and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of any of the following for which that governmental entity has issued such permit or authorization: advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away

openings, sidewalk vaults, elevators, street banners or decorations.

### I. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

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

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

### J. INCIDENTAL MEDICAL MALPRACTICE

- 1. The following replaces Paragraph **b.** of the definition of "occurrence" in the **DEFINITIONS** Section:

- b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

- 2. The following replaces the last paragraph of Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a)**, **(b)**, **(c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide:

- (a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician, paramedic, athletic trainer, audiologist, dietician, nutritionist,

occupational therapist or occupational therapy assistant, physical therapist or speech-language pathologist; or

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

3. The following replaces the last sentence of Paragraph 5. of **SECTION III – LIMITS OF INSURANCE**:

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

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

**Sale Of Pharmaceuticals**

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

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

"Incidental medical services" means:

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

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

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis,

that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

**K. MEDICAL PAYMENTS – INCREASED LIMIT**

The following replaces Paragraph 7. of **SECTION III – LIMITS OF INSURANCE**:

7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:

- a. \$10,000; or
- b. The amount shown in the Declarations of this Coverage Part for Medical Expense Limit.

**L. AMENDMENT OF EXCESS INSURANCE CONDITION – PROFESSIONAL LIABILITY**

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

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is Professional Liability or similar coverage, to the extent the loss is not subject to the professional services exclusion of Coverage A or Coverage B.

**M. BLANKET WAIVER OF SUBROGATION – WHEN REQUIRED BY WRITTEN CONTRACT OR AGREEMENT**

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

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

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

subsequent to the signing of that contract or agreement.

## COMMERCIAL GENERAL LIABILITY

### N. CONTRACTUAL LIABILITY – RAILROADS

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

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BLANKET ADDITIONAL INSURED – WRITTEN CONTRACTS (ARCHITECTS, ENGINEERS AND SURVEYORS)**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is limited as follows:

- c. In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III – Limits Of Insurance.
- d. This insurance does not apply to the rendering of or failure to render any "professional services" or construction management errors or omissions.
- e. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured ap-

plies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

**2. The following is added to Paragraph 4.a. of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

The insurance provided to the additional insured is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that "other insurance". But this insurance provided to the additional insured still is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any "other insurance".

**2. The following is added to SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

**Duties Of An Additional Insured**

As a condition of coverage provided to the additional insured:

- a. The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

## COMMERCIAL GENERAL LIABILITY

- i. How, when and where the "occurrence" or offense took place;
  - ii. The names and addresses of any injured persons and witnesses; and
  - iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against the additional insured, the additional insured must:
  - i. Immediately record the specifics of the claim or "suit" and the date received; and
  - ii. Notify us as soon as practicable.

The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. The additional insured must immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- d. The additional insured must tender the defense and indemnity of any claim or "suit" to

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

4. The following is added to the **DEFINITIONS** Section:

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

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

## EXCESS FOLLOW-FORM AND UMBRELLA LIABILITY INSURANCE

**THIS POLICY, INPART, PROVIDES FOLLOW-FORM LIABILITY COVERAGE. COVERAGE WILL APPLY ON A CLAIMS-MADE BASIS WHEN FOLLOWING CLAIMS-MADE UNDERLYING INSURANCE.**

**COVERAGE WILL APPLY ON A DEFENSE-WITHIN-LIMITS BASIS WHEN FOLLOWING UNDERLYING INSURANCE UNDER WHICH DEFENSE EXPENSES ARE PAYABLE WITHIN, AND NOT IN ADDITION TO, THE LIMITS OF INSURANCE. WHEN FOLLOWING SUCH UNDERLYING INSURANCE, PAYMENT OF DEFENSE EXPENSES UNDER THIS POLICY WILL REDUCE, AND MAY EXHAUST, THE LIMITS OF INSURANCE OF THIS POLICY.**

**PLEASE READ THE ENTIRE POLICY CAREFULLY.**

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy, the words "you" and "your" refer to the Named Insured shown in the Declarations and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under **SECTION II – WHO IS AN INSURED**.

Other words and phrases that appear in quotation marks have special meaning. Refer to **SECTION VI – DEFINITIONS**.

### SECTION I – COVERAGES

#### A. COVERAGE A – EXCESS FOLLOW-FORM LIABILITY

1. We will pay on behalf of the insured those sums, in excess of the "applicable underlying limit", that the insured becomes legally obligated to pay as damages to which Coverage A of this insurance applies, provided that the "underlying insurance" would apply to such damages but for the exhaustion of its applicable limits of insurance. If a sublimit is specified in any "underlying insurance", Coverage A of this insurance applies to damages that are in excess of that sublimit only if such sublimit is shown for that "underlying insurance" in the Schedule Of Underlying Insurance.
2. Coverage A of this insurance is subject to the same terms, conditions, agreements, exclusions and definitions as the "underlying insurance", except with respect to any

provisions to the contrary contained in this insurance.

3. The amount we will pay for damages is limited as described in **SECTION III – LIMITS OF INSURANCE**.
4. For the purposes of Paragraph 1. above:
  - a. The applicable limit of insurance stated for the policies of "underlying insurance" in the Schedule Of Underlying Insurance will be considered to be reduced or exhausted only by the following payments:
    - (1) Payments of judgments or settlements for damages that are covered by that "underlying insurance". However, if such "underlying insurance" has a policy period which differs from the policy period of this Excess Follow-Form And Umbrella Liability Insurance, any such payments for damages that would not be covered by this Excess Follow-Form And Umbrella Liability

Insurance because of its different policy period will not reduce or exhaust the applicable limit of insurance stated for such "underlying insurance";

- (2) Payments of "medical expenses" that are covered by that "underlying insurance" and are incurred for "bodily injury" caused by an accident that takes place during the policy period of this Excess Follow-Form And Umbrella Liability Insurance; or
- (3) Payments of defense expenses that are covered by that "underlying insurance", only if such "underlying insurance" includes such payments within the limits of insurance. However, if such "underlying insurance" has a policy period which differs from the policy period of this Excess Follow-Form And Umbrella Liability Insurance, any such payments for defense expenses that would not be covered by this Excess Follow-Form And Umbrella Liability Insurance because of its different policy period will not reduce or exhaust the applicable limit of insurance stated for such "underlying insurance".

If the applicable limit of insurance stated for the policies of "underlying insurance" in the Schedule Of Underlying Insurance is actually reduced or exhausted by other payments, Coverage A of this insurance is not invalidated. However, in the event of a loss, we will pay only to the extent that we would have paid had such limit not been actually reduced or exhausted by such other payments.

- b. If any "underlying insurance" has a limit of insurance greater than the amount shown for that insurance in the Schedule of Underlying Insurance, this insurance will apply in excess of that greater amount. If any "underlying insurance" has a limit of insurance, prior to any reduction or exhaustion by payment of damages, "medical expenses" or defense expenses described in Paragraph a. above, that is less than the amount shown for that insurance in the Schedule Of Underlying Insurance, this insurance will apply in excess of the amount shown for such insurance in the Schedule Of Underlying Insurance.
5. When the "underlying insurance" applies on a claims-made basis and includes a retroactive

date provision, the retroactive date for Coverage A of this insurance is the same as the retroactive date of that "underlying insurance".

## B. COVERAGE B – UMBRELLA LIABILITY

1. We will pay on behalf of the insured those sums in excess of the "self-insured retention" that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage", "personal injury" or "advertising injury" to which Coverage B of this insurance applies.
2. Coverage B of this insurance applies to "bodily injury" or "property damage" only if:
  - a. The "bodily injury" or "property damage" is caused by an "occurrence" that takes place anywhere in the world;
  - b. The "bodily injury" or "property damage" occurs during the policy period; and
  - c. Prior to the policy period, no insured listed under Paragraph 1. in Paragraph B., **COVERAGE B – UMBRELLA LIABILITY**, 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, in whole or in part, 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.
3. Coverage B of this insurance applies to "personal injury" or "advertising injury" caused by an offense arising out of your business, but only if the offense was committed during the policy period anywhere in the world.
4. The amount we will pay for damages is limited as described in **SECTION III – LIMITS OF INSURANCE**.
5. "Bodily injury" or "property damage":
  - a. Which occurs during the policy period; and
  - b. Which was not prior to, but was during, the policy period known to have occurred by any insured listed under Paragraph 1. in Paragraph B., **COVERAGE B – UMBRELLA LIABILITY** of **SECTION II – WHO IS AN INSURED**, or any "employee" authorized by you to give notice of an "occurrence" or claim;

includes any continuation, change or resumption of the "bodily injury" or "property damage" after the end of the policy period.

6. "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. in Paragraph B., **COVERAGE B – UMBRELLA LIABILITY**, of **SECTION II – WHO IS AN INSURED** or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
  - a. Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
  - b. Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
  - c. Becomes aware by any other means that the "bodily injury" or "property damage" has occurred or has begun to occur.
7. 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".
8. Coverage B of this insurance does not apply to damages covered by any "underlying insurance" or that would have been covered by any "underlying insurance" but for the exhaustion of its applicable limit of insurance.

**C. COVERAGE C – CRISIS MANAGEMENT SERVICE EXPENSES**

1. We will reimburse the insured, or pay on the insured's behalf, "crisis management service expenses" to which Coverage C applies.
2. Coverage C of this insurance applies to "crisis management service expenses" that:
  - a. Arise out of a "crisis management event" that first commences during the policy period;
  - b. Are incurred by the insured, after a "crisis management event" first commences and before such event ends; and
  - c. Are submitted to us within 180 days after the "crisis management advisor" advises you that the "crisis management event" no longer exists.
3. A "crisis management event" will be deemed to:
  - a. First commence at the time when any "executive officer" first becomes aware of an "event" or "occurrence" that leads to that "crisis management event"; and
  - b. End when we decide that the crisis no longer exists or when the Crisis

Management Service Expenses Limit has been exhausted, whichever occurs first.

4. The amount we will pay for "crisis management service expenses" is limited as described in **SECTION III – LIMITS OF INSURANCE**.
5. A "self-insured retention" does not apply to "crisis management service expenses".
6. Any payment of "crisis management service expenses" that we make will not be determinative of our obligations under this insurance with respect to any claim or "suit" or create any duty to defend or indemnify any insured for any claim or "suit".

**D. DEFENSE AND SUPPLEMENTARY PAYMENTS**

1. We will have the right and duty to defend the insured:
  - a. Under Coverage A, against a "suit" seeking damages to which such coverage applies, if:
    - (1) The "applicable underlying limit" is the applicable limit of insurance stated for a policy of "underlying insurance" in the Schedule Of Underlying Insurance and such limit has been exhausted solely due to payments as permitted in Paragraphs 4.a.(1), (2) and (3) of **COVERAGE A – EXCESS FOLLOW-FORM LIABILITY** of **SECTION I – COVERAGES**; or
    - (2) The "applicable underlying limit" is the applicable limit of any "other insurance" and such limit has been exhausted by payments of judgments, settlements or medical expenses, or related costs or expenses (if such costs or expenses reduce such limits).

For any "suit" for which we have the right and duty to defend the insured under Coverage A, defense expenses will be within the limits of insurance of this policy when such expenses are within the limits of insurance of the applicable "underlying insurance"; or

- b. Under Coverage B, against a "suit" seeking damages to which such coverage applies.
2. We have no duty to defend any insured against any "suit":
  - a. Seeking damages to which this insurance does not apply; or
  - b. If any other insurer has a duty to defend.

## UMBRELLA

2. When we have the duty to defend, we may, at our discretion, investigate and settle any claim or "suit". In all other cases, we may, at our discretion, participate in the investigation, defense and settlement of any claim or "suit" for damages to which this insurance may apply. If we exercise such right to participate, all expenses we incur in doing so will not reduce the applicable limits of insurance.
4. Our duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements, or defense expenses if such expenses are within the limits of insurance of this policy.
5. We will pay, with respect to a claim we investigate or settle, or "suit" against an insured we defend:
  - a. All expenses we incur.
  - b. The cost of:
    - (1) Bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which this insurance applies; or
    - (2) Appeal bonds and bonds to release attachments;  
but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
  - c. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of such claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.
  - d. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
  - e. 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.
  - f. All interest that accrues on the full amount of any judgment 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. If we do not pay part of the judgment for any reason other than it is more than the applicable limit of insurance, we will not pay any interest that accrues on that portion of the judgment.

With respect to a claim we investigate or settle, or "suit" against an insured we defend under **COVERAGE A – EXCESS FOLLOW-FORM LIABILITY**, these payments will not reduce the applicable limits of insurance, but only if the applicable "underlying insurance" provides for such payments in addition to its limits of insurance. With respect to a claim we investigate or settle, or "suit" against an insured we defend under **COVERAGE B – UMBRELLA LIABILITY**, these payments will not reduce the applicable limits of insurance.

## SECTION II – WHO IS AN INSURED

### A. COVERAGE A – EXCESS FOLLOW-FORM LIABILITY

With respect to Coverage A, the following persons and organizations qualify as insureds:

1. The Named Insured shown in the Declarations; and
2. Any other person or organization qualifying as an insured in the "underlying insurance". If you have agreed to provide insurance for that person or organization in a written contract or agreement:
  - a. The limits of insurance afforded to such person or organization will be:
    - (1) The amount by which the minimum limits of insurance you agreed to provide such person or organization in that written contract or agreement exceed the total limits of insurance of all applicable "underlying insurance"; or
    - (2) The limits of insurance of this policy; whichever is less; and
  - b. Coverage under this policy does not apply to such person or organization if the minimum limits of insurance you agreed to provide such person or organization in that written contract or agreement are wholly within the total limits of insurance of all available applicable "underlying insurance".

### B. COVERAGE B – UMBRELLA LIABILITY

With respect to Coverage B:

1. The Named Insured shown in the Declarations is an insured.
2. If you are:
  - a. An individual, your spouse is also an insured, but only with respect to the conduct of a business of which you are the sole owner.

- b. A partnership or joint venture, 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, your members are also insureds, but only with respect to the conduct of your business. Your managers are also insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, your "officers" and directors are also 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, your trustees are also insureds, but only with respect to their duties as trustees.
3. Each of the following is also an insured:
- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "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 injury":
      - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
      - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
      - (c) For which there is any obligation to share damages with or repay someone else who must pay

damages because of the injury described in Paragraph (1)(a) or (b) above; or

- (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your "employees" or "volunteer workers" other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

- (2) "Property damage" to property:

- (a) Owned, occupied or used by; or
- (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" or "volunteer workers", any of your partners or members (if you are a partnership or joint venture), or any of your members (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization, while acting as your real estate manager.
  - c. Any person or organization having proper temporary custody of your property if you die, but only:
    - (1) With respect to liability arising out of the maintenance or use of that property; and
    - (2) Until your legal representative has been appointed.
  - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.
4. Any organization, other than a partnership, joint venture or limited liability company, of which you are the sole owner, or in which you

maintain an ownership interest of more than 50%, on the first day of the policy period is an insured and will qualify as a Named Insured. No such organization is an insured or will qualify as a Named Insured for "bodily injury" or "property damage" that occurred, or "personal injury" or "advertising injury" caused by an offense committed after the date, if any, during the policy period, that you no longer maintain an ownership interest of more than 50% in such organization.

5. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and of which you are the sole owner, or in which you maintain an ownership interest of more than 50%, is an insured and 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; and
  - b. Coverage for such organization does not apply to:
    - (1) "Bodily injury" or "property damage" that occurred; or
    - (2) "Personal injury" or "advertising injury" arising out of an offense committed; before you acquired or formed the organization.

No person or organization is an insured or will qualify as a Named 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. This paragraph does not apply to any such partnership, joint venture or limited liability company that otherwise qualifies as an insured under Paragraph B. of **SECTION II – WHO IS AN INSURED.**

#### **C. COVERAGE C – CRISIS MANAGEMENT SERVICE EXPENSES**

With respect to Coverage C, the following persons and organizations are insureds and will qualify as Named Insureds:

1. The Named Insured shown in the Declarations.
2. Any organization, other than a partnership, joint venture or limited liability company, of which you are the sole owner, or in which you maintain an ownership interest of more than 50%, on the first day of the policy period. No such organization is an insured or will qualify as a Named Insured for "crisis management service expenses" arising out of a "crisis management event" that first commences after

the date, if any, during the policy period, that you no longer maintain an ownership interest of more than 50% in such organization.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and of which you are the sole owner, or in which you maintain an ownership interest of more than 50%, 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; and
  - b. Coverage for such organization does not apply to "crisis management service expenses" arising out of a "crisis management event" that occurred before you acquired or formed the organization, even if an "executive officer" only first becomes aware of an "event" or "occurrence" that leads to such "crisis management event" after the date you acquired or formed the organization.

No person or organization is an insured or will qualify as a Named 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**

- A. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay for the amounts described below to which this insurance applies regardless of the number of:
  1. Insureds;
  2. Claims made or "suits" brought;
  3. Number of vehicles involved;
  4. Persons or organizations making claims or bringing "suits"; or
  5. Coverages provided under this insurance.

As indicated in Paragraph D.1. of **SECTION I – COVERAGES**, for any "suit" for which we have the right and duty to defend the insured under Coverage A, defense expenses will be within the limits of insurance of this policy when such expenses are within the limits of insurance of the applicable "underlying insurance".

- B. The General Aggregate Limit is the most we will pay for the sum of all:
  1. Damages; and
  2. Defense expenses if such expenses are within the limits of insurance of this policy;

except:

1. Damages and defense expenses because of "bodily injury" or "property damage" included in the "auto hazard";
  2. Damages and defense expenses because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; or
  2. Damages and defense expenses for which insurance is provided under any Aircraft Liability coverage included as "underlying insurance" to which no aggregate limit applies.
- C.** The Products-Completed Operations Aggregate Limit is the most we will pay for the sum of all:
1. Damages; and
  2. Defense expenses if such expenses are within the limits of insurance of this policy; because of "bodily injury" or "property damage" included in the "products-completed operations hazard".
- D.** Subject to Paragraph **B.** or **C.** above, whichever applies, the Occurrence Limit is the most we will pay for the sum of all:
1. Damages, and defense expenses if such expenses are within the limits of insurance of this policy, under Coverage **A** arising out of any one "event" to which the "underlying insurance" applies a limit of insurance that is separate from any aggregate limit of insurance; and
  2. Damages under Coverage **B** because of all "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of any one "occurrence".
- For the purposes of determining the applicable Occurrence Limit, all related acts or omissions committed in the providing or failing to provide first aid or "Good Samaritan services" to any one person will be considered one "occurrence".
- E.** The Crisis Management Service Expenses Limit is the most we will pay for the sum of all "crisis management service expenses" arising out of all "crisis management events". Payment of such "crisis management service expenses" is in addition to, and will not reduce, any other limit of insurance of this policy.
- F.** The limits of insurance of this policy 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. If the policy period is extended after issuance for an additional period of less than 12 months, the additional period will be deemed part of the last preceding period for purposes of determining the limits of insurance.

#### SECTION IV – EXCLUSIONS

This insurance does not apply to:

- A.** With respect to Coverage **A** and Coverage **B**:

#### 1. Asbestos

- a.** Damages arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the damages are caused or contributed to by the hazardous properties of asbestos.
- b.** Damages arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any damages described in Paragraph **a.** above.
- c.** 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, asbestos, asbestos fibers or products containing asbestos; or
  - (2) Claim or "suit" by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, asbestos, asbestos fibers or products containing asbestos.

#### 2. Employment-Related Practices

Damages because of injury to:

- a.** A person arising out of any:
  - (1) Refusal to employ that person;
  - (2) Termination of that person's employment; or
  - (3) Employment-related practice, policy, act or omission, such as coercion, demotion, evaluation, reassignment, discipline, failure to promote or advance, harassment, humiliation, discrimination, libel, slander, violation of the person's right of privacy, malicious prosecution or false arrest, detention or imprisonment, applied to or directed at that person, regardless of whether such practice, policy, act or omission occurs, is applied or is

committed before, during or after the time of that person's employment; or

- b. The spouse, child, parent, brother or sister of that person as a consequence of injury to that person as described in Paragraphs a.(1), (2) or (3) above.

This exclusion applies:

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

## 2. ERISA, COBRA And Similar Laws

Any obligation of the insured under:

- a. The Employees Retirement Income Security Act Of 1974 (ERISA) or any of its amendments;
- b. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) or any of its amendments; or
- c. Any similar common or statutory law of any jurisdiction.

## 4. Medical Expenses Or Payments

Any obligation of the insured under any "medical expenses" or medical payments coverage.

## 5. Nuclear Material

Damages arising out of:

- a. The actual, alleged or threatened exposure of any person or property to; or
- b. The "hazardous properties" of; any "nuclear material".

As used in this exclusion:

- a. "Hazardous properties" includes radioactive, toxic or explosive properties;
- b. "Nuclear material" means "source material", "special nuclear material" or "by-product material"; and
- c. "Source material", "special nuclear material" and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or any of its amendments.

## 6. Uninsured or Underinsured Motorists, No-Fault And Similar Laws

Any liability imposed on the insured, or the insured's insurer, under any of the following laws:

- a. Uninsured motorists;
- b. Underinsured motorists;

- c. Auto no-fault or other first-party personal injury protection (PIP);
- d. Supplementary uninsured/underinsured motorists (New York); or
- e. Medical expense benefits and income loss benefits (Virginia).

## 7. War

Damages arising out of:

- a. War, including undeclared or civil war; or
- b. 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
- c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

## 8. Workers Compensation And Similar Laws

Any obligation of the insured under a workers compensation, disability benefits or unemployment compensation law or any similar law.

## B. With respect to Coverage B:

### 1. Expected Or Intended Bodily Injury Or Property Damage

"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.

### 2. Contractual Liability

"Bodily injury", "property damage", "personal injury" or "advertising injury" 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 that the insured would have in the absence of the contract or agreement.

### 2. Liquor Liability

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

- a. Causing or contributing to the intoxication of any person, including causing or contributing to the intoxication of any person because alcoholic beverages were permitted to be brought on your premises for consumption on your premises;

- b. The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- c. Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

#### 4. Employers Liability

"Bodily injury" to:

- a. An "employee" of the insured arising out of and in the course of:
  - (1) Employment by the insured; or
  - (2) Performing duties related to the conduct of the insured's business; or
- b. The spouse, child, parent, brother or sister of that "employee" as a consequence of "bodily injury" described in Paragraph a. above.

This exclusion applies:

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

#### 5. Pollution

- a. "Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants".
- b. Any loss, cost or expense arising out of any:
  - (1) Request, demand, order or statutory or regulatory requirement that any insured or any other person or organization 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 any governmental authority or any other person or organization 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".

#### 6. Aircraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft 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 that is owned or operated by or rented or loaned to any insured.

#### 7. Auto

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any "auto". 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 "auto".

This exclusion does not apply to "bodily injury" or "property damage" caused by an "occurrence" that takes place outside of the United States of America (including its territories and possessions), Puerto Rico and Canada.

#### 8. Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any 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 watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to a watercraft:

- a. While ashore on premises owned by or rented to any insured; or
- b. That is 50-feet long or less and that:
  - (1) You own; or

- (2) You do not own and is not being used to carry any person or property for a charge.

**9. Electronic Data**

Damages claimed for the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

**10. Damage To Property, Products Or Work**

"Property damage" to:

- a. Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person or organization, 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;
- b. Premises you sell, give away or abandon if the "property damage" arises out of any part of those premises;
- c. Property loaned to you;
- d. Personal property in the care, custody or control of the insured;
- e. 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;
- f. That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it;
- g. "Your product" arising out of "your product" or any part of it; or
- h. "Your work" arising out of "your work" or any part of it and included in the "products-completed operations hazard".

**11. 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:

- a. A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- b. A delay or failure by you, or anyone acting on your behalf, to fulfill the terms of a contract or agreement.

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.

**12. 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:

- a. "Your product";
- b. "Your work"; or
- c. "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.

**13. Violation Of Consumer Financial Protection Laws**

"Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of any actual or alleged violation of a "consumer financial protection law", or any other "bodily injury", "property damage", "personal injury" or "advertising injury" alleged in any claim or "suit" that also alleges any such violation.

**14. Unsolicited Communication**

"Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

**15. Access Or Disclosure Of Confidential Or Personal Information**

"Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information.

**16. Knowing Violation Of Rights Of Another**

"Personal injury" or "advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal injury" or "advertising injury".

**17. Material Published With Knowledge Of Falsity**

"Personal injury" or "advertising injury" arising out of oral or written publication, including publication by electronic means, of material, if done by or at the direction of the insured with knowledge of its falsity.

**18. Material Published Or Used Prior To Policy Period**

- a. "Personal injury" or "advertising injury" arising out of oral or written publication, including publication by electronic means, of material whose first publication took place before the beginning of the policy period; or
- b. "Advertising injury" arising out of infringement of copyright, "title" or "slogan" in your "advertisement" whose first infringement in your "advertisement" was committed before the beginning of the policy period.

**19. Criminal Acts**

"Personal injury" or "advertising injury" arising out of a criminal act committed by or at the direction of the insured.

**20. Breach Of Contract**

"Personal injury" or "advertising injury" arising out of a breach of contract.

**21. Quality Or Performance Of Goods – Failure To Conform To Statements**

"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".

**22. Wrong Description Of Prices**

"Advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

**23. Intellectual Property**

"Personal injury" or "advertising injury" arising out of any actual or alleged infringement or violation of any of the following rights or laws, or any other "personal injury" or "advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation:

- a. Copyright;
- b. Patent;
- c. Trade dress;
- d. Trade name;
- e. Trademark;
- f. Trade secret; or
- g. Other intellectual property rights or laws.

This exclusion does not apply to:

- a. "Advertising injury" arising out of any actual or alleged infringement or violation of another's copyright, "title" or "slogan" in your "advertisement"; or

- b. Any other "personal injury" or "advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation of another's copyright, "title" or "slogan" in your "advertisement".

**24. Insureds In Media And Internet Type Business**

"Personal injury" or "advertising injury" arising out of an offense committed by an insured whose business is:

- a. Advertising, "broadcasting" or publishing;
- b. Designing or determining content of web-sites for others; or
- c. An Internet search, access, content or service provider.

This exclusion does not apply to Paragraphs **a.(1), (2) and (3)** of the definition of "personal injury".

For the purposes of this exclusion:

- a. Creating and producing correspondence written in the conduct of your business, bulletins, financial or annual reports, or newsletters about your goods, products or services will not be considered the business of publishing; and
- b. The placing of frames, borders or links, or advertising, for you or others anywhere on the Internet will not, by itself, be considered the business of advertising, "broadcasting" or publishing.

**G.. Electronic Chatrooms Or Bulletin Boards**

"Personal injury" or "advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns or over which the insured exercises control.

**26. Unauthorized Use Of Another's Name Or Product**

"Personal injury" or "advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

**C. With respect to Coverage C:**

**Newly Acquired, Controlled Or Formed Entities**

"Crisis management service expenses" arising out of a "crisis management event" that involves any organization you newly acquire or form and that occurred prior to the date you acquired or formed that organization, even if an "executive officer" only first becomes aware of an "event" or "occurrence" that leads to such "crisis

management event" after the date you acquired or formed such organization.

## SECTION V – CONDITIONS

### A. APPEALS

1. If the insured or the insured's "underlying insurer" elects not to appeal a judgment which exceeds the "applicable underlying limit" or "self-insured retention", we may do so.
2. If we appeal such a judgment, we will pay all costs of the appeal. These payments will not reduce the applicable limits of insurance. In no event will our liability exceed the applicable limit of insurance.

### B. BANKRUPTCY

1. Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this insurance.
2. In the event of bankruptcy or insolvency of any "underlying insurer", this insurance will not replace such bankrupt or insolvent "underlying insurer's" policy, and this insurance will apply as if such "underlying insurer" had not become bankrupt or insolvent.

### C. CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this insurance by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this insurance by mailing or delivering to such first Named Insured written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 60 days before the effective date of cancellation if we cancel for any other reason.
2. We will mail or deliver our notice to such first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this insurance is cancelled, we will send such first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If such first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

### D. CHANGES

This policy contains all the agreements between you and us concerning the insurance afforded. No change can be made in the terms of this insurance except with our consent. The terms of this insurance can be amended or waived only by endorsement issued by us and made a part of this policy.

### E. CURRENCY

Payments for damages or expenses described in Paragraph 5. of Paragraph **D., DEFENSE AND SUPPLEMENTARY PAYMENTS**, of **SECTION I – COVERAGES** will be in the currency of the United States of America. At our sole option, we may make these payments in a different currency. Any necessary currency conversion for such payments will be calculated based on the rate of exchange published in the Wall Street Journal immediately preceding the date the payment is processed.

### F. DUTIES REGARDING AN EVENT, OCCURRENCE, CLAIM OR SUIT

1. You must see to it that we are notified as soon as practicable of an "event" or "occurrence" which may result in a claim under this insurance. To the extent possible, notice should include:
  - a. How, when and where the "event" or "occurrence" took place;
  - b. The names and addresses of any persons or organizations sustaining injury, damage or loss, and the names and addresses of any witnesses; and
  - c. The nature and location of any injury or damage arising out of the "event" or "occurrence".
2. If a claim is made or "suit" is brought against any insured which may result in a claim under this insurance, you must see to it that we receive written notice of the claim or "suit" as soon as practicable.
3. With respect to Coverage **A**, the insured must:
  - a. Cooperate with us in the investigation, settlement or defense of any claim or "suit";
  - b. Comply with the terms of the "underlying insurance"; and
  - c. Pursue all rights of contribution or indemnity against any person or organization who may be liable to the insured because of the injury, damage or loss for which insurance is provided under

this policy or any policy of "underlying insurance".

4. With respect to Coverage B, the insured must:
  - a. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
  - b. Authorize us to obtain necessary records and other information;
  - c. Cooperate with us in the investigation, settlement or defense of any claim or "suit"; and
  - d. 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 Coverage B may apply.
5. No insured will, except at that insured's own expense, voluntarily make a payment, assume any obligation, make any admission or incur any expense, other than for first aid for "bodily injury" covered by this insurance, without our consent.
6. Knowledge of an "event", "occurrence", claim or "suit" by your agent, servant or "employee" will not constitute knowledge by you, unless your insurance or risk manager, or anyone working in the capacity as your insurance or risk manager, or anyone you designate with the responsibility of reporting an "event", "occurrence", claim or "suit":
  - a. Has received notice of such "event", "occurrence", claim or "suit" from such agent, servant or "employee"; or
  - b. Otherwise has knowledge of such "event", "occurrence", claim or "suit".

#### **G. DUTIES REGARDING A CRISIS MANAGEMENT EVENT**

You must:

1. Notify us within 30 days of a "crisis management event" that may result in "crisis management service expenses".
2. Provide written notice of the "crisis management event" as soon as practicable. To the extent possible, notice should include:
  - a. How, when and where that "crisis management event" took place;
  - b. The names and addresses of any persons or organizations sustaining injury, damage or loss, and the names and addresses of any witnesses;

- c. The nature and location of any injury or damage arising out of that "crisis management event"; and
- d. The reason that "crisis management event" is likely to involve damages covered by this insurance in excess of the "applicable underlying limit" or "self-insured retention" and involve regional or national media coverage.

#### **H. EXAMINATION OF YOUR BOOKS AND RECORDS**

We may examine and audit your books and records as they relate to this insurance:

1. At any time during the policy period;
2. Up to three years after the end of the policy period; and
3. Within one year after final settlement of all claims under this insurance.

#### **I. EXTENDED REPORTING PERIOD OPTION**

1. When the "underlying insurance" applies on a claims-made basis, any automatic or basic "extended reporting period" in such "underlying insurance" will apply to this insurance.
2. When the "underlying insurance" applies on a claims-made basis and you elect to purchase an optional or supplemental "extended reporting period" in such "underlying insurance," that "extended reporting period" will apply to this insurance only if:
  - a. A written request to purchase an Extended Reporting Period endorsement for this insurance is made by you and received by us within 90 days after the end of the policy period;
  - b. You have paid all premiums due for this policy at the time you make such request;
  - c. You promptly pay the additional premium we charge for the Extended Reporting Period endorsement for this insurance when due. We will determine that additional premium after we have received your request for the Extended Reporting Period endorsement for this insurance. That additional premium is not subject to any limitation stated in the "underlying insurance" on the amount or percentage of additional premium that may be charged for the "extended reporting period" in such "underlying insurance"; and

## UMBRELLA

- d. That Extended Reporting Period endorsement is issued by us and made a part of this policy.
3. Any Extended Reporting Period endorsement for this insurance will not reinstate or increase the Limits of Insurance or extend the policy period.
4. Except with respect to any provisions to the contrary contained in Paragraphs 1., 2. or 3. above, all provisions of any option to purchase an "extended reporting period" granted to you in the "underlying insurance" apply to this insurance.

### J. INSPECTIONS AND SURVEYS

1. We have the right but are not obligated to:
  - a. Make inspections and surveys at any time;
  - b. Give you reports on the conditions we find; and
  - c. Recommend changes.
2. Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. We do not warrant that conditions:
  - a. Are safe or healthful; or
  - b. Comply with laws, regulations, codes or standards.

### K. LEGAL ACTION AGAINST US

1. No person or organization has a right under this insurance:
  - 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 insurance unless all of its terms have been fully complied with.
2. A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured. We will not be liable for damages that:
  - a. Are not payable under the terms of this insurance; or
  - b. 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.

### L. MAINTENANCE OF UNDERLYING INSURANCE

1. The insurance afforded by each policy of "underlying insurance" will be maintained for

the full policy period of this Excess Follow-Form And Umbrella Liability Insurance. This provision does not apply to the reduction or exhaustion of the aggregate limit or limits of such "underlying insurance" solely by payments as permitted in Paragraphs 4.a.(1), (2) and (3) of **COVERAGE A – EXCESS FOLLOW-FORM LIABILITY** of **SECTION I – COVERAGES**. As such policies expire, you will renew them at limits and with coverage at least equal to the expiring limits of insurance. If you fail to comply with the above requirements, Coverage A is not invalidated. However, in the event of a loss, we will pay only to the extent that we would have paid had you complied with the above requirements.

2. The first Named Insured shown in the Declarations must give us written notice of any change in the "underlying insurance" as respects:
  - a. Coverage;
  - b. Limits of insurance;
  - c. Termination of any coverage; or
  - d. Exhaustion of aggregate limits.
3. If you are unable to recover from any "underlying insurer" because you fail to comply with any term or condition of the "underlying insurance", Coverage A is not invalidated. However, we will pay for any loss only to the extent that we would have paid had you complied with that term or condition in that "underlying insurance".

### M. OTHER INSURANCE

This insurance is excess over any valid and collectible "other insurance" whether such "other insurance" is stated to be primary, contributing, excess, contingent or otherwise. This provision does not apply to a policy bought specifically to apply as excess of this insurance.

However, if you specifically agree in a written contract or agreement that the insurance provided to any person or organization that qualifies as an insured under this insurance must apply on a primary basis, or a primary and non-contributory basis, then insurance provided under Coverage A is subject to the following provisions:

1. This insurance will apply before any "other insurance" that is available to such additional insured which covers that person or organization as a named insured, and we will not share with that "other insurance", provided that the injury or damage for which coverage is sought is caused by an "event" that takes place or is committed subsequent to the signing of that contract or agreement by you.
2. This insurance is still excess over any valid and collectible "other insurance", whether primary, excess, contingent or otherwise, which covers that person or organization as an additional insured or as any other insured that does not qualify as a named insured.

#### N. PREMIUM

1. The first Named Insured shown in the Declarations is responsible for the payment of all premiums and will be the payee for any return premiums.
2. If the premium is a flat charge, it is not subject to adjustment except as provided in Paragraph 4. below.
3. If the premium is other than a flat charge, it is an advance premium only. The earned premium will be computed at the end of the policy period, or at the end of each year of the policy period if the policy period is two years or longer, at the rate shown in the Declarations, subject to the Minimum Premium.
4. Additional premium may become payable when coverage is provided for additional insureds under the provisions of **SECTION II – WHO IS AN INSURED**.

#### O. PREMIUM AUDIT

The premium for this policy is the amount stated in Item 5. of the Declarations. The premium is a flat charge unless it is specified in the Declarations as adjustable.

#### P. PROHIBITED COVERAGE – UNLICENSED INSURANCE

1. With respect to loss sustained by any insured in a country or jurisdiction in which we are not licensed to provide this insurance, this insurance does not apply to the extent that insuring such loss would violate the laws or regulations of such country or jurisdiction.
2. We do not assume responsibility for:
  - a. The payment of any fine, fee, penalty or other charge that may be imposed on any person or organization in any country or jurisdiction because we are not licensed to

provide insurance in such country or jurisdiction; or

- b. The furnishing of certificates or other evidence of insurance in any country or jurisdiction in which we are not licensed to provide insurance.

#### Q. PROHIBITED COVERAGE – TRADE OR ECONOMIC SANCTIONS

We will provide coverage for any loss, or otherwise will provide any benefit, only to the extent that providing such coverage or benefit does not expose us or any of our affiliated or parent companies to:

1. Any trade or economic sanction under any law or regulation of the United States of America; or
2. Any other applicable trade or economic sanction, prohibition or restriction.

#### R. REPRESENTATIONS

By accepting this insurance, you agree:

1. The statements in the Declarations and any subsequent notice relating to "underlying insurance" are accurate and complete;
2. Those statements are based upon representations you made to us; and
3. We have issued this insurance in reliance upon your representations.

#### S. SEPARATION OF INSURED

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured shown in the Declarations, this insurance applies:

1. As if each Named Insured were the only Named Insured; and
2. Separately to each insured against whom claim is made or "suit" is brought.

#### T. WAIVER OR TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

1. If the insured has rights to recover all or part of any payment we have made under this insurance, those rights are transferred to us and 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, and with respect to Coverage A, the "underlying insurer", enforce them.

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against that person or organization, but only for payments we make because of an "event" that takes place or is committed subsequent to the

execution of that contract or agreement by such insured.

2. Reimbursement of any amount recovered will be made in the following order:
  - a. First, to any person or organization (including us or the insured) who has paid any amount in excess of the applicable limit of insurance;
  - b. Next, to us; and
  - c. Then, to any person or organization (including the insured and with respect to Coverage A, the "underlying insurer") that is entitled to claim the remainder, if any.
2. Expenses incurred in the process of recovery will be divided among all persons or organizations receiving amounts recovered according to the ratio of their respective recoveries.

#### U. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS INSURANCE

1. Your rights and duties under this insurance may not be transferred without our written consent except in the case of death of an individual Named Insured.
2. If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

#### V. UNINTENTIONAL OMISSION OR ERROR

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

#### W. WHEN LOSS IS PAYABLE

If we are liable under this insurance, we will pay for injury, damage or loss after:

1. The insured's liability is established by:
  - a. A court decision; or
  - b. A written agreement between the claimant, the insured, any "underlying insurer" and us; and
2. The amount of the "applicable underlying limit" or "self-insured retention" is paid by or on behalf of the insured.

#### SECTION VI – DEFINITIONS

##### A. With respect to all coverages of this insurance:

1. "Applicable underlying limit" means the sum of:
  - a. The applicable limit of insurance stated for the policies of "underlying insurance" in the Schedule Of Underlying Insurance subject to the provisions in Paragraphs 4.a.(1), (2) and (3) of **COVERAGE A – EXCESS FOLLOW-FORM LIABILITY of SECTION I – COVERAGES**; and
  - b. The applicable limit of insurance of any "other insurance" that applies.

The limits of insurance in any policy of "underlying insurance" will apply even if:

- a. The "underlying insurer" claims the insured failed to comply with any term or condition of the policy; or
  - b. The "underlying insurer" becomes bankrupt or insolvent.
2. "Auto hazard" means all "bodily injury" and "property damage" to which liability insurance afforded under an auto policy of "underlying insurance" would apply but for the exhaustion of its applicable limits of insurance.
  3. "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.
  4. "Event" means an "occurrence", offense, accident, act, error, omission, wrongful act or loss.
  5. "Extended reporting period" means any period of time, starting with the end of the policy period of your claims-made insurance, during which claims or "suits" may be first made, brought or reported for that insurance.
  6. "Medical expenses" means expenses to which any Medical Payments section of any policy of Commercial General Liability "underlying insurance" applies.
  7. "Other insurance" means insurance, or the funding of losses, that is provided by, through or on behalf of:
    - a. Another insurance company;
    - b. Us or any of our affiliated insurance companies;
    - c. Any risk retention group;

- d. Any self-insurance method or program, in which case the insured will be deemed to be the provider of such insurance; or
- e. Any similar risk transfer or risk management method.

"Other insurance" does not include:

- a. Any "underlying insurance"; or
- b. Any policy of insurance specifically purchased to be excess of the limits of insurance of this policy shown in the Declarations.

**8. "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 the work called for in your contract has been completed;
  - (b) When all the work to be done at the job site has been completed if your contract calls for work at more than one job site; or
  - (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 a policy of

Commercial General Liability "underlying insurance" states that products-completed operations are subject to the General Aggregate Limit.

**9. "Suit" means a civil proceeding which alleges damages. "Suit" includes:**

- a. An arbitration proceeding in which damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding to which the insured submits with our consent.

**10. "Underlying insurance":**

- a. Means the policy or policies of insurance listed in the Schedule Of Underlying Insurance.
- b. Includes any renewal or replacement of such policies if such renewal or replacement is during the policy period of this Excess Follow-Form And Umbrella Liability Insurance.
- c. Does not include any part of the policy period of any of the policies described in Paragraphs a. or b. above that began before, or that continues after, the policy period of this Excess Follow-Form And Umbrella Liability Insurance.

**11. "Underlying insurer" means any insurer which provides a policy of insurance listed in the Schedule Of Underlying Insurance.**

**B. With respect to Coverage B and, to the extent that the following terms are not defined in the "underlying insurance", to Coverage A:**

**1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:**

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

**2. "Advertising injury":**

## UMBRELLA

- a. Means injury, other than "personal injury", caused by one or more of the following offenses:
    - (1) Oral or written publication, including publication by electronic means, of material in your "advertisement" that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged;
    - (2) Oral or written publication, including publication by electronic means, of material in your "advertisement" that:
      - (a) Appropriates a person's name, voice, photograph or likeness; or
      - (b) Unreasonably places a person in a false light; or
    - (3) Infringement of copyright, "title" or "slogan" in your "advertisement", provided that the claim is made or the "suit" is brought by a person or organization that claims ownership of such copyright, "title" or "slogan".
  - b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph a. above.
3. "Auto" means:
- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
  - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.
- However, "auto" does not include "mobile equipment".
4. "Bodily injury" means:
- a. Physical harm, including sickness or disease, sustained by a person; or
  - b. Mental anguish, injury or illness, or emotional distress, resulting at any time from such physical harm, sickness or disease.
5. "Broadcasting" means transmitting any audio or visual material for any purpose:
- a. By radio or television; or
  - b. In, by or with any other electronic means of communication, such as the Internet, if that material is part of:
    - (1) Radio or television programming being transmitted;
    - (2) Other entertainment, educational, instructional, music or news programming being transmitted; or
    - (3) Advertising transmitted with any such programming.
6. "Consumer financial identity information" means any of the following information for a person that is used or collected for the purpose of serving as a factor in establishing such person's eligibility for personal credit, insurance or employment or for the purpose of conducting a business transaction:
- a. Part or all of the account number, the expiration date or the balance of any credit, debit, bank or other financial account;
  - b. Information bearing on a person's credit worthiness, credit standing or credit capacity;
  - c. Social security number;
  - d. Driver's license number; or
  - e. Birth date.
7. "Consumer financial protection law" means:
- a. The Fair Credit Reporting Act (FCRA) and any of its amendments, including the Fair and Accurate Credit Transactions Act (FACTA);
  - b. California's Song-Beverly Credit Card Act and any of its amendments; or
  - c. Any other law or regulation that restricts or prohibits the collection, dissemination, transmission, distribution or use of "consumer financial identity information".
8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
9. "Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.
24. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

- b.** You have failed to fulfill the terms of a contract or agreement;
- if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.
- 11.** "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".
- 12.** "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".
- 13.** "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a.** Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads.
  - b.** Vehicles maintained for use solely on or next to premises you own or rent.
  - c.** Vehicles that travel on crawler treads.
  - d.** Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
    - (1)** Power cranes, shovels, loaders, diggers or drills; or
    - (2)** Road construction or resurfacing equipment such as graders, scrapers or rollers.
  - e.** Vehicles not described in Paragraph **a.**, **b.**, **c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - (1)** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical

exploration, lighting and well servicing equipment; or

- (2)** Cherry pickers and similar devices used to raise or lower workers.

- f.** Vehicles not described in Paragraph **a.**, **b.**, **c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1)** Equipment designed primarily for:

- (a)** Snow removal;
- (b)** Road maintenance, but not construction or resurfacing; or
- (c)** Street cleaning;

- (2)** Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

- (3)** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicle that is subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged. Such land vehicles are considered "autos".

- 14.** "Occurrence" means:

- a.** With respect to "bodily injury" or "property damage":

- (1)** An accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results in "bodily injury" or "property damage". All "bodily injury" or "property damage" caused by such exposure to substantially the same general harmful conditions will be deemed to be caused by one "occurrence"; or

- (2)** An act or omission committed in providing or failing to provide first aid or "Good Samaritan services" to a person by any of your "employees" or "volunteer workers" other than an employed or volunteer doctor, unless you are in the business or occupation of providing professional health care services;

- b. With respect to "personal injury", an offense arising out of your business that results in "personal injury". All "personal injury" caused by the same or related injurious material, act or offense will be deemed to be caused by one "occurrence", regardless of the frequency or repetition thereof, the number and kind of media used or the number of persons or organizations making claims or bringing "suits"; and
  - c. With respect to "advertising injury", an offense committed in the course of advertising your goods, products and services that results in "advertising injury". All "advertising injury" caused by the same or related injurious material, act or offense will be deemed to be caused by one "occurrence", regardless of the frequency or repetition thereof, the number and kind of media used or the number of persons or organizations making claims or bringing "suits".
- 10. "Officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
- 16. "Personal injury":
  - a. Means injury, other than "advertising injury", caused by one or more of the following offenses:
    - (1) False arrest, detention or imprisonment;
    - (2) Malicious prosecution;
    - (3) 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, provided that the wrongful eviction, wrongful entry or invasion of the right of private occupancy is committed by or on behalf of the owner, landlord or lessor of that room, dwelling or premises;
    - (4) Oral or written publication, including publication by electronic means, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged; or
    - (5) Oral or written publication, including publication by electronic means, of material that:
      - (a) Appropriates a person's name, voice, photograph or likeness; or
      - (b) Unreasonably places a person in a false light.
  - b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph a. above.
- 17. "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.
- 18. "Property damage" means:
  - a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use will 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 will be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, "electronic data" is not tangible property.
- 19. "Self-insured retention" is the greater of:
  - a. The amount shown in the Declarations which the insured must first pay under Coverage B for damages because of all "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of any one "occurrence"; or
  - b. The applicable limit of insurance of any "other insurance" that applies.
- 20. "Slogan":
  - a. Means a phrase that others use for the purpose of attracting attention in their advertising.
  - b. Does not include a phrase used as, or in, the name of:
    - (1) Any person or organization other than you; or
    - (2) Any business, or any of the premises, goods, products, services or work, of any person or organization other than you.

21. "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.
22. "Title" means the name of a literary or artistic work.
23. "Unsolicited communication" means any communication, in any form, that the recipient of such communication did not specifically request to receive.
24. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed by you.
25. "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.
26. "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.

**C. With respect to Coverage C:**

1. "Crisis management advisor" means any public relations firm or crisis management firm approved by us that is hired by you to perform "crisis management services" in connection with a "crisis management event".
2. "Crisis management event" means an "event" or "occurrence" that your "executive officer" reasonably determines has resulted, or may result, in:
  - a. Damages covered by this Coverage A or Coverage B that are in excess of the total applicable limits of the "underlying insurance" or "self-insured retention"; and
  - b. Significant adverse regional or national media coverage.
3. "Crisis management service expenses" means amounts incurred by you, after a "crisis management event" first commences and before such event ends:
  - a. For the reasonable and necessary:
    - (1) Fees and expenses of a "crisis management advisor" in the performance for you of "crisis management services" solely for a "crisis management event"; and
    - (2) Costs for printing, advertising, mailing of materials or travel by your directors, officers, employees or agents or a "crisis management advisor" solely for a "crisis management event"; and
  - b. For the following expenses resulting from such "crisis management event", provided that such expenses have been approved by us:
    - (1) Medical expenses;
    - (2) Funeral expenses;
    - (3) Psychological counseling;
    - (4) Travel expenses;
    - (5) Temporary living expenses;
    - (6) Expenses to secure the scene of a "crisis management event"; or
    - (7) Any other expenses pre-approved by us.

## UMBRELLA

4. "Crisis management services" means those services performed by a "crisis management advisor" in advising you or minimizing potential harm to you from a "crisis management event" by maintaining or restoring public confidence in you.
5. "Executive officer" means your:
  - a. Chief Executive Officer;
  - b. Chief Operating Officer;
  - c. Chief Financial Officer;
  - d. President;
  - e. General Counsel;
  - f. General partner (if you are a partnership); or
  - g. Sole proprietor (if you are a sole proprietorship);or any person acting in the same capacity as any individual listed above.

# WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

WC 04 03 06 (Ed. 4 84)

## WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT—CALIFORNIA

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective on 07/01/2023 at 12:01 A.M. standard time, forms a part of  
(DATE)

Policy No. WC 8664223 - 01 Endorsement No.

of the Zurich American Insurance Company  
(NAME OF INSURANCE COMPANY)

issued to SANDERSON BELLECCI INC

Premium (if any) \$

\_\_\_\_\_  
Authorized Representative

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be % of the California workers' compensation premium otherwise due on such remuneration

### Schedule

Person or Organization	Job Description
------------------------	-----------------

ALL CA Operations	
-------------------	--

POLICY NUMBER: P-660-7W723958-COF-23

EFFECTIVE DATE: 05-19-23

ISSUE DATE: 06-05-23

## LISTING OF FORMS, ENDORSEMENTS AND SCHEDULE NUMBERS

THIS LISTING SHOWS THE NUMBER OF FORMS, SCHEDULES AND ENDORSEMENTS  
BY LINE OF BUSINESS.

IL T0 02 11 89	COMMON POLICY DECLARATIONS
IL T8 01 10 93	FORMS, ENDORSEMENTS AND SCHEDULE NUMBERS
IL T0 01 01 07	COMMON POLICY CONDITIONS
IL T0 03 04 96	LOCATION SCHEDULE
IL T8 00	GENERAL PURPOSE ENDORSEMENT

## COMMERCIAL PROPERTY

CP T0 11 01 03	COMMERCIAL PROPERTY DECLARATIONS
CP 12 18 10 12	LOSS PAYABLE PROVISIONS
CP 03 20 10 92	MULTIPLE DEDUCTIBLE FORM
CP T0 00 02 11	TABLE OF CONTENTS COMMERCIAL PROPERTY
CP 00 90 07 88	COMMERCIAL PROPERTY CONDITIONS
CP T1 00 02 17	BUILDING AND PERSONAL PROPERTY COVERAGE
CP T1 04 02 17	BUS INC (AND EXTRA EXPENSE) COV FRM
CP T1 08 02 17	CAUSE OF LOSS - SPECIAL FORM
CP T3 69 02 17	ELECTRONIC VANDALISM LIMITATION END
CP T3 82 02 04	CAUSES OF LOSS - EQUIPMENT BREAKDOWN
CP T3 38 02 17	PROPERTY EXTRA
CP T3 81 01 21	FEDERAL TERRORISM RISK INSURANCE ACT DIS

## COMMERCIAL GENERAL LIABILITY

CG T0 01 11 03	COML GENERAL LIABILITY COV PART DEC
CG T0 07 09 87	DECLARATIONS PREMIUM SCHEDULE
CG T0 08 11 03	KEY TO DECLARATIONS PREMIUM SCHEDULE
CG T0 34 02 19	TABLE OF CONTENTS - COM GEN LIAB COV
CG T1 00 02 19	COMMERCIAL GENERAL LIABILITY COV FORM
CG D3 75 03 06	ADD'L INSUR-MORTGAGEE, ASSIGNEE, SUCCESSOR
CG D4 14 04 08	BLANKET ADDL INSD - WRITTEN CONTRACTS
CG D9 10 09 21	AMENDMENT OF INTELLECTUAL PROPERTY EXCL
CG D2 03 12 97	AMEND-NON CUMULATION OF EACH OCC
CG D3 79 02 19	XTEND END FOR ARCHITECTS, ENG & SURVEY
CG D2 64 11 03	EXCL-TEST/CONSULTING ERRORS AND OMISSION
CG D2 72 11 03	EXCL-INSPECTION/APPRaisal/SURVEY COMPANI
CG D2 73 11 03	EXCL-ENGINEERS/ARCHITECTS PROF LIAB
CG D2 93 11 03	EXCL-CONSTRUCT MANAGE ERRORS & OMISSIONS
CG D3 80 10 11	EXCL-ENGIN ARCHITECT OR SURVEY PROF LIAB
CG D4 21 07 08	AMEND CONTRAC LIAB EXCL-EXC TO NAMED INS
CG D6 18 10 11	EXCL-VIOLATION OF CONSUMER FIN PROT LAWS
CG D8 52 09 20	UNMANNED AIRCRAFT EXCL-EXCPTS APPLY
CG D0 76 06 93	EXCLUSION-LEAD
CG D1 42 02 19	EXCLUSION-DISCRIMINATION
CG D1 74 02 19	AMEND-POLL EXCL-INCL LTD COV POLL COSTS

POLICY NUMBER: P-660-7W723958-COF-23

EFFECTIVE DATE: 05-19-23

ISSUE DATE: 06-05-23

## COMMERCIAL GENERAL LIABILITY (CONTINUED)

CG D2 40 09 15 EXCLUSION -SILICA OR SILICA-RELATED DUST  
CG T4 90 05 19 EXCLUSION - ABUSE OR MOLESTATION

## EMPLOYEE BENEFITS LIABILITY

CG T0 09 09 93 EMPLOYEE BENEFITS LIAB COV PART DEC  
CG T0 43 01 16 EMPLOYEE BENEFITS LIAB TABLE OF CONTENTS  
CG T1 01 01 16 EMPLOYEE BENEFITS LIABILITY COV FORM

## INTERLINE ENDORSEMENTS

IL T0 63 07 22 ACTUAL CASH VALUE  
IL T3 68 01 21 FED TERRORISM RISK INS ACT DISCLOSURE  
IL T4 12 03 15 AMNDT COMMON POLICY COND-PROHIBITED COVG  
IL T4 14 01 21 CAP ON LOSSES FROM CERT ACTS OF TERRORIS  
IL T4 27 06 19 ADDITIONAL BENEFITS  
IL T4 40 10 20 PROTECTION OF PROPERTY  
IL T3 82 05 13 EXCL OF LOSS DUE TO VIRUS OR BACTERIA  
IL F1 00 02 20 CA CHANGES - REPLACEMENT COST  
IL 00 21 09 08 NUCLEAR ENERGY LIAB EXCL END-BROAD FORM  
IL 01 02 02 20 CA CHANGES - ACTUAL CASH VALUE  
IL 01 04 07 20 CA CHANGES  
IL 01 67 10 13 MT CHANGES - CONFORMITY WITH STATUTES  
IL 01 69 09 07 CO CHANGES CONCEAL MISREP OR FRAUD  
IL 02 43 09 07 MONTANA CHANGES  
IL T3 05 07 15 INSURER AMENDMENT ENDORSEMENT  
IL T3 55 05 13 EXCLUSION OF CERTAIN COMPUTER LOSSES

## POLICYHOLDER NOTICES

PN T1 89 02 23 JURISDICTIONAL INSP & CONTACT INFO REQ  
PN U4 42 01 22 NOTICE OF IMPORTANT PROVISIONS-MONTANA  
PN T1 94 12 21 IMPORTANT NOTICE - LEAD EXCLUSION