

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
THE PLANNING CENTER**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of September 4, 2018, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town") and The Planning Center, an Arizona corporation (the "Consultant").

RECITALS

A. The Town issued a Request for Proposals, DS 2018-02 "2020 GENERAL PLAN UPDATE" (the "RFP"), a copy of which is on file in the Town Clerk's Office and incorporated herein by reference, seeking proposals from vendors for consulting services for an update of the Fountain Hills General Plan 2010 (the "Services").

B. The Consultant responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the Town desires to enter into an Agreement with the Consultant for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Consultant hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until November 30, 2020 unless terminated as otherwise provided in this Agreement.

2. Scope of Work. Consultant shall provide the Services as set forth in the Scope of Work, attached hereto as Exhibit B and incorporated herein by reference.

3. Compensation. The Town shall pay Consultant an amount not to exceed \$100,000.00 for the Services at the rates as set forth in the Fee Proposal, attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The Town shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the Town pursuant to this Agreement shall be the property of the Town.

6. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign specific individuals to key positions. If deemed qualified, the Consultant is encouraged to hire Town residents to fill vacant positions at all levels. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the Town. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the Town of same and shall, subject to the concurrence of the Town, replace such personnel with personnel possessing substantially equal ability and qualifications.

7. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the Town at reasonable times during Consultant's performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the Town.

8. Licenses; Materials. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Consultant. The Town has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The Town has no obligation to provide tools, equipment or material to Consultant.

9. Performance Warranty. Consultant warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

10. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold harmless the Town and each council member, officer, employee or agent thereof (the Town and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, breach of contract, in connection with the work or services of the Consultant, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

11. Insurance.

11.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense,

hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the Town. Failure to maintain insurance as specified herein may result in termination of this Agreement at the Town's option.

B. No Representation of Coverage Adequacy. By requiring insurance herein, the Town does not represent that coverage and limits will be adequate to protect Consultant. The Town reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

C. Additional Insured. All insurance coverage, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

D. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the Town, unless specified otherwise in this Agreement.

E. Primary Insurance. Consultant's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the Town as an Additional Insured.

F. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

G. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the Town, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Consultant. Consultant shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

H. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-

insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Town. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Agreement and insurance requirements set forth herein protecting the Town and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant will provide the Town with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Consultant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The Town shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Consultant's responsibility to forward renewal certificates and declaration page(s) to the Town 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(1) The Town, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

(a) Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 03 97 or equivalent.

(b) Auto Liability – Under ISO Form CA 20 48 or equivalent.

(c) Excess Liability – Follow Form to underlying insurance.

(2) Consultant's insurance shall be primary insurance with respect to performance of this Agreement.

(3) All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against Town, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Consultant under this Agreement.

(4) ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

11.2 Required Insurance Coverage.

A. Commercial General Liability. Consultant shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured's clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

B. Vehicle Liability. Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant's owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

C. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work in any way related to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

11.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or be materially changed without 30 days' prior written notice to the Town.

12. Termination: Cancellation.

12.1 For Town's Convenience. This Agreement is for the convenience of the Town and, as such, may be terminated without cause after receipt by Consultant of written notice by the Town. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

12.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the Town to the Consultant for the undisputed portion of its fee due as of the termination date.

12.3 Due to Work Stoppage. This Agreement may be terminated by the Town upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the Town to the Consultant for the undisputed portion of its fee due as of the termination date.

12.4 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The Town may cancel this Agreement without penalty or further obligations by the Town or any of its departments or agencies if any person significantly

involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Town or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

12.5 Gratuities. The Town may, by written notice to the Consultant, cancel this Agreement if it is found by the Town that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the Town for the purpose of securing this Agreement. In the event this Agreement is canceled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Consultant an amount equal to 150% of the gratuity.

12.6 Agreement Subject to Appropriation. This Agreement is subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Agreement for payment of funds by the Town shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The Town shall be the sole judge and authority in determining the availability of funds under this Agreement and the Town shall keep the Consultant fully informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is a current expense of the Town, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Town. If the Town Council fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the Town and the Consultant shall be relieved of any subsequent obligation under this Agreement.

13. Miscellaneous.

13.1 Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the Town. Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the Town. The Town does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the Town, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. Town and Consultant do not intend to nor will they combine business operations under this Agreement.

13.2 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

13.3 Laws and Regulations. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future Town and County ordinances and regulations; (B) existing and future State and Federal laws; and (C) existing and future Occupational Safety and Health Administration standards.

13.4 Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the Town and the Consultant.

13.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, this Agreement will promptly be physically amended to make such insertion or correction.

13.6 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of this Agreement which may remain in effect without the invalid provision or application.

13.7 Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting this Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

13.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Consultant without prior, written permission of the Town, signed by the Town Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

13.9 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior written approval of the Town. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Consultant.

13.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the Town of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of

the Town to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the Town's acceptance of and payment for services, shall not release the Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the Town to insist upon the strict performance of this Agreement.

13.11 Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

13.12 Liens. All materials or services shall be free of all liens and, if the Town requests, a formal release of all liens shall be delivered to the Town.

13.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the Town may offset from any money due to the Consultant any amounts Consultant owes to the Town for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The Town may offset from any money due to the Consultant any amounts Consultant owes to the Town for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

13.14 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Fountain Hills
 16705 East Avenue of the Fountains
 Fountain Hills, Arizona 85268
 Attn: Grady E. Miller, Town Manager

With copy to: Dickinson Wright, PLLC
 1850 N. Central Ave, Ste 1400
 Phoenix, Arizona 85004
 Attn: Mitesh V. Patel

If to Consultant: The Planning Center
 1270 E. Broadway Rd. Ste 203
 Tempe, AZ 85282
 Attn: Jessica Sarkissian, Principal

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

13.15 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the Town for the purpose of ensuring that information contained in its records or obtained from the Town or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the Town. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

13.16 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 13.17 below, Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 13.17 below. To the extent necessary for the Town to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this subsection. The Town shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

13.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-

verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town.

13.18 Israel. Consultant certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

13.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Scope of Work, any Town-approved Purchase Order, the Fee Proposal, the RFP and the Consultant's Proposal, the documents shall govern in the order listed herein.

13.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the Town. The Town reserves the right to obtain like goods and services from another source when necessary.

13.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted to utilize procurement agreements developed by the Town, at their discretion and with the agreement of the awarded Consultant. Consultant may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Consultant. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The Town assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The Town shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“Town”

TOWN OF FOUNTAIN HILLS,
an Arizona municipal corporation



Grady E. Miller, Town Manager

ATTEST:

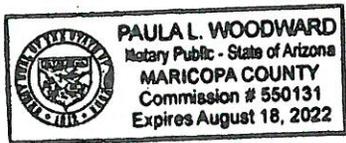


Elizabeth A. Burke, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On September 5, 2018, before me personally appeared Grady E. Miller, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.





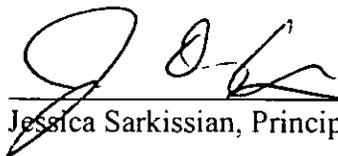
Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

“Consultant”

THE PLANNING CENTER,
an Arizona corporation

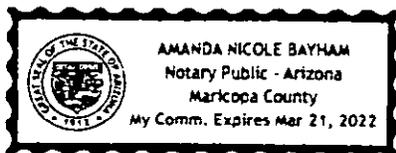


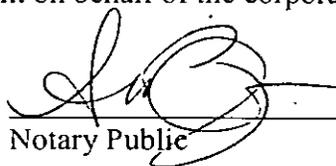
Jessica Sarkissian, Principal

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On July 30, 2018, before me personally appeared Jessica Sarkissian, the Principal of The Planning Center, an Arizona Corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the corporation.





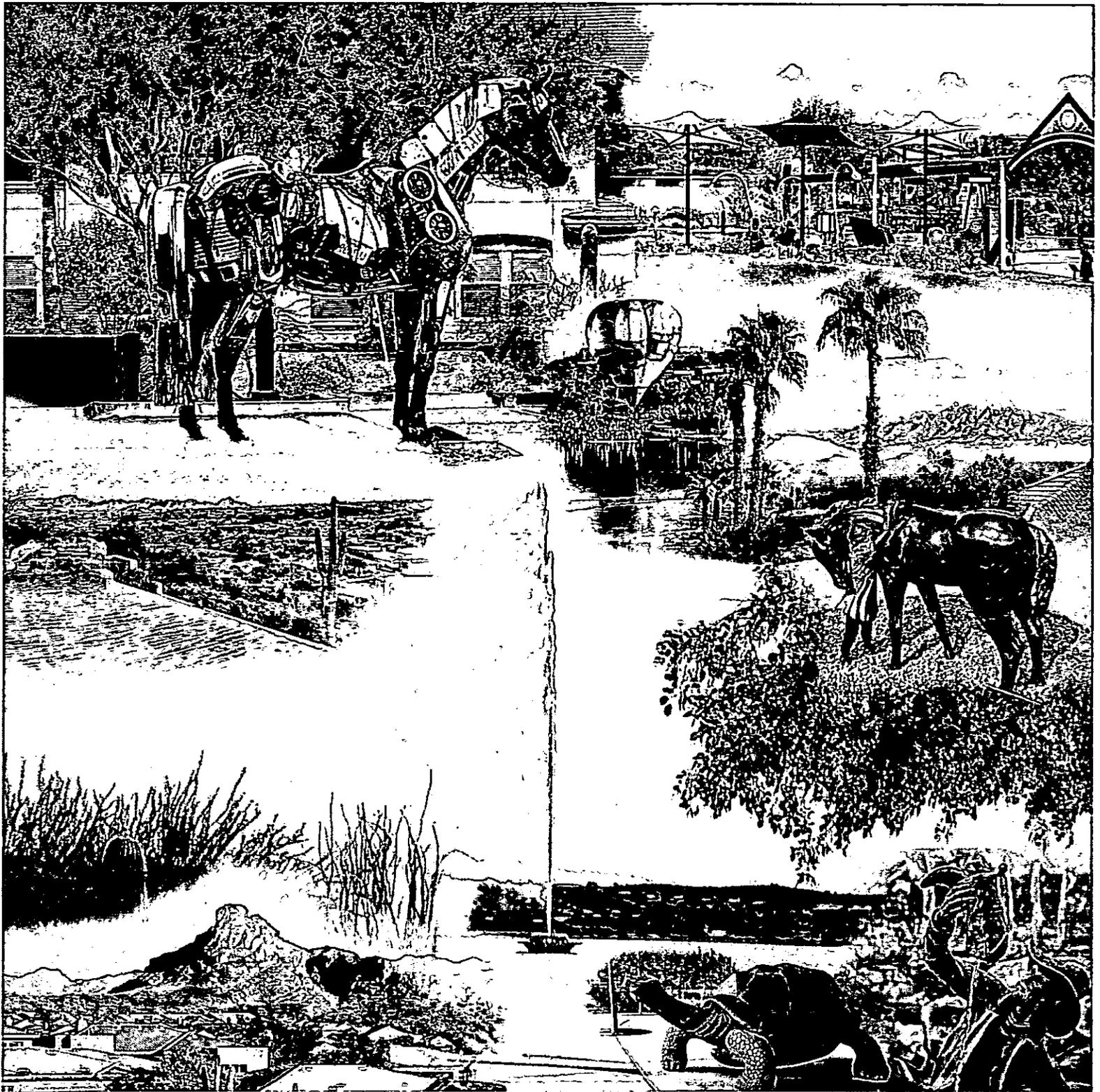
Notary Public

(Affix notary seal here)

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
THE PLANNING CENTER

[Consultant's Proposal]

See following pages.



Town of Fountain Hills 2020 General Plan Update

DS2018-02

The Planning Center

1270 E. Broadway Road, Suite 203
Tempe, Arizona 85282
Voice: 480-750-7300
Website: azplanningcenter.com



THE PLANNING CENTER
a division of TPC Group, Inc.

1. COVER LETTER

June 20, 2018

Town of Fountain Hills
16705 East Avenue of the Fountains
Fountain Hills, AZ 85268

Subject: Fountain Hills 2020 General Plan Update (DS 2018-02)

Dear Selection Committee,

With enthusiasm, we submit The Planning Center proposal for the preparation of the Town of Fountain Hills General Plan Update. Fountain Hills is a unique and world-renowned community with many possibilities and opportunities in its future. This General Plan Update will allow the Town to move toward its fullest potential and utilize best practices for future development.

The Planning Center has been a contributing force in strengthening the Southwest region since 1985. With offices in Tucson and Tempe, Arizona, The Planning Center offers expertise in all aspects of community and regional planning, community design, landscape architecture, sustainable best practices, socio-economic/demographic analysis, economic development, GIS/graphic analysis, and all facets of public engagement and community involvement. Our firm has spearheaded many award winning General Plans in the Southwest. With our partners in success, Bowman Consulting, Elliott D. Pollack & Company and local planner Loras Rauch, AICP, our team provides a wealth of on-the-ground knowledge of the area's circulation, water and wastewater resources, infrastructure planning, economic feasibility and local Town knowledge. Each of our key team members has the capacity and commitment to complete the scope of work described in the proposal within the stated timeframe and proposed budget.

As a Principal, I am authorized to make this offer. The enclosed proposal is valid for 90 days. We also acknowledge and agree to Addendum Items # 1, 2, and 3 dated May 10 and May 17, 2018

Thank you for the opportunity to submit our Proposal.

Sincerely,

Jessica Sarkissian, Principal
THE PLANNING CENTER
Ph: (480) 750.7300

2. FIRM EXPERIENCE & SIMILAR PROJECTS

With headquarters in Tucson, Arizona and a local office in Tempe, Arizona, The Planning Center assembled a team that includes the best local experts with a strong understanding of the Town of Fountain Hills and the regions' dynamics, economy, politics, infrastructure, regulatory framework, and environment, supplemented by regionally and nationally recognized specialists. Our team includes The Planning Center, Bowman Consulting, Elliott D. Pollack & Company and Contract Planning Services. This project team has successfully worked together in previous projects and share the level of professionalism, work ethics and technical acumen valued by the Town of Fountain Hills. Most importantly, this project team recently collaborated on the Fountain Hills State Land property on the north side of Town and are aware of the impact this site has on the growth and future of Fountain Hills.



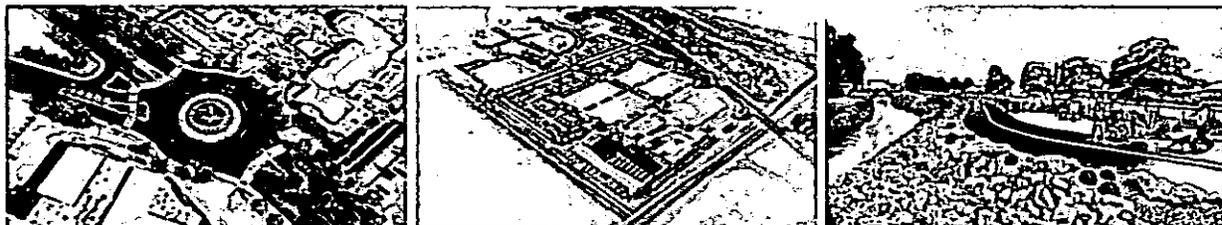
The Planning Center

The Planning Center uses the latest technologies to create planning solutions to challenges facing communities. The Planning Center excels in general and comprehensive planning, and has a track record of multiple award-winning general and comprehensive plans and their respective community engagement processes. Services include regional, general, comprehensive, area, neighborhood and master planning and design, growth management, landscape architecture, community visioning and meaningful public engagement. Our office cultivates an atmosphere of high standards and our team of talented professionals care deeply about what we do. The Planning Center's depth of resources and staff assure effective and imaginative solutions tailored to fit our clients' specific needs. As a woman-owned business, The Planning Center is DBE certified by the State of Arizona and recognized as a SBE/DBE through the City of Tucson certification process.

The Planning Center Experience Preparing Comprehensive Plan Projects

Envision Safford: City of Safford General Plan

Client:	City of Safford
Reference:	Dustin Welker (Community Development Director at that time), Graham County Administrator DWelker@graham.az.gov (928) 428-3250
Project Length:	April 2015 to late 2016 (ADOPTED 2016)
Key Personnel Roles:	The Planning Center: Linda Morales, Principal-in-Charge; Maria Masque, Project Manager, Lead Planner & Outreach Coordinator; Brian Underwood, GIS and mapping; Daniel Bradshaw, Landscape Architecture, Parks, Recreation and Graphics.
Awards:	American Planning Association (APA) Arizona Best General Plan 2017 APA Arizona Best Public Participation 2016
Link:	http://www.cityofsafford.us/DocumentCenter/View/1225



Aspire: Town of Sahuarita General Plan and Sahuarita East Conceptual Area Plan (SECAP)

Client:	Town of Sahuarita
Reference:	Sarah More, Planning and Building Director, smore@sahuaritaaz.gov (520) 822-8853
Length of Project:	2013 to 2015 (ADOPTED 2015)
Key Personnel Roles:	The Planning Center: Linda Morales, Principal-in-Charge/Project Manager, Lead Planner, Policy Writer, Facilitator; Maria Masque, Planner, Policy Writer; Brian Underwood, GIS and mapping in partnership with Town GIS team; Daniel Bradshaw, Landscape Architecture, Parks, Recreation, Graphics. Kimley-Horn: Brent Crowther, transportation planning and engineering updated the MS&SR concurrent to general plan and SECAP Conceptual circulation/multi-modal road system network.
Year Adopted:	2015
Awards:	Aspire won the APA Arizona Best General Plan 2016 and the SECAP won an APA Award and the MPA Common Grounds Awards for exemplary collaboration as one of the 20 top projects of the year in 2015.
Link:	http://sahuaritaaz.gov/DocumentCenter/View/1169

As lead consultant, The Planning Center facilitated an advisory group including the Town of Sahuarita, the Arizona State Land Department, the Sonoran Institute, the Drachman Institute and top representatives and major employers in real estate and land development, to create a conceptual plan for a future model community in a semi-arid environment. The draft conceptual plan supports a high-tech, environmentally-friendly, live/work environment on a large area of Arizona State Trust Land directly east of the current Town boundaries. It includes areas for residential, commercial, industrial, employment and mixed-use developments. To meet a diversity of social, cultural, environmental and recreational desires by residents and a future workforce, the plan includes policies promoting plazas, open space, cultural and community spaces, wash preservation, and other recreational amenities. Experience garnered and lessons learned during the SECAP planning process will assist in the development of growth scenarios for the ASLD properties. The **SECAP** was rolled into the general plan process during the Town of Sahuarita General Plan. For reference, key personnel and project link, see Aspire: Town of Sahuarita General Plan provided above.

Pima Prospers: Pima County Comprehensive Plan

Client	Pima County
Reference:	Carmine DeBonis Jr., Carmine.DeBonis@pima.gov ; (520) 724-8661
Length of Project:	2013 to 2015 (ADOPTED 2015)
Key Personnel Roles:	The Planning Center: Linda Morales, Principal-in-Charge/Project Manager/Planner/Policy writer; Maria Masque/Project Manager/Lead Planner/Policy Writer; Brian Underwood, GIS and mapping working with Pima County GIS team; Daniel Bradshaw, Landscape Architecture, Parks, Recreation, Graphics, Illustrations.
Year Adopted:	2015
Awards:	APA Arizona Best General Plan 2016 and MPA Common Ground Award for exemplary collaboration as one of the 20 top projects of the year in 2015.
Link:	http://webcms.pima.gov/government/pima_prospers/

Designed to have countywide applicability, the Environmental Element of Pima Prospers anticipated effects of implementation of plan elements on natural resources. As part of the comprehensive plan process, the Maeveen Marie Behan Conservation Lands System (CLS) designed to protect biodiversity and provide land use guidelines consistent with the conservation goal of the Sonoran Desert Conservation Plan (SDCP) and the SDCP were updated and integrated in the Comprehensive Plan. Strategies such as Transfer of Development Rights (TDR) as well as designation of giving and receiving TDR areas were also defined as part of Pima Prospers. The County concurrently updated the MS&SR which was successfully integrated to land use efforts.

The Planning Center Additional Comprehensive and General Plan Experience

- **Kayenta Township Comprehensive Plan and Zoning Ordinance.** Kayenta Township, Navajo Nation, Arizona (2012). Received the APA Arizona Best Comprehensive Plan Award 2014. Kayenta is the growth center of the Navajo Nation. Role of team members that will be involved in the Town of Fountain Hills General Plan: Maria Masque, Principal-in-Charge, Project Manager, Lead Planner, Policy Writer, Project Analyst, Design Charrette and Outreach Coordinator, Facilitator; Daniel Bradshaw, Landscape Architecture, Parks, Recreation, Trail System, Streetscape Design, Illustrations, Meeting Facilitation, Design Team Coordinator.
- **City of Nogales General Plan.** Nogales, Arizona (2010). Its major focus was employment and revitalization. Role of team members that will be involved in the Town of Fountain Hills General Plan: Linda Morales, Principal-in-Charge, Planner, Policy Writer, Facilitator; Maria Masque, Project Manager, Lead Planner, Policy Writer, Project Analyst, Outreach Coordinator, Facilitator.
- **El Mirage General Plan.** El Mirage, Arizona (2010). El Mirage General Plan was the first fully sustainable plan adopted in the state of Arizona. This innovative general plan received the APA Arizona Best Public Participation Award 2009 for public participation, and the prestigious Valley Forward Best Livable Community Plan in the Phoenix Metropolitan Area Merit Award 2011. Role of team members that will be involved in the Town of Fountain Hills General Plan: Linda Morales, Principal-in-Charge, Planner, Policy Writer, Facilitator; Maria Masque, Project Manager, Lead Planner, Outreach Coordinator, Facilitator, and coordinator of El Mirage Park Bench Interviews and Oral History Podcast projects.
- **Queen Creek General Plan.** Queen Creek, Arizona (2007) with a focus on revenue generating and employment uses. Role of team members that will be involved in the Town of Fountain Hills General Plan: Linda Morales, Principal-in-Charge, Planner, Policy Writer, Facilitator; and Maria Masque, Project Manager, Lead Planner, Policy Writer, Project Analyst, and Outreach Coordinator.
- **Pascua Yaqui Tribe General Plan.** Pascua Pueblo, Arizona (2005). With a resort, hospitality and entertainment focus, Pascua Pueblo is the growth center of the Pascua Yaqui Tribe. Role of team members that will be involved in the Town of Fountain Hills General Plan: Linda Morales, Principal-in-Charge, Project Manager, Planner, Policy Writer, Facilitator; and Maria Masque, Project Manager, Lead Planner, and Outreach Coordinator.



Bowman

CONSULTING

Bowman Consulting

Established in 1995, Bowman Consulting Group, Ltd. (Bowman) is a national engineering and design consulting firm that specializes in providing a wide range of engineering and surveying services to both the public and private market sectors. From its local offices in Tempe, Tucson, Peoria and Safford, Bowman provides surveying and civil engineering services for public and private. Bowman Consulting engineers and project managers have earned a reputation for delivering timely and economical solutions to virtually every type of civil engineering challenge. We command comprehensive and up to date knowledge of local, state and federal regulations. We are adept at integration into the project team and effectively work to facilitate communication with Clients, architects and other subconsultants to ensure seamless design and prompt issue resolution. Our expertise in site design and knowledge of industry and governmental standards enable Bowman Consulting to provide our Clients with superior service on any site development project.



Elliott D. Pollack
& Company

Elliott D. Pollack & Company

Elliott D. Pollack & Company is headed by one of Arizona's most noted economists. Since 1987, the firm has been offering a broad range of economic and real estate consulting services backed by the most comprehensive database found in Arizona. The firm offers a broad range of economic and real estate consulting services backed by one of the most comprehensive databases found in the nation. This information makes it possible to conduct economic forecasting, develop economic impact studies and prepare demographic analyses and forecasts. Econometric modeling and economic development analysis and planning are also part of our capabilities. The staff includes professionals with backgrounds in economics, urban planning, financial analysis, real estate development and government. These professionals serve a broad client base of both public and private sector entities that range from school districts and utility companies to law firms and real estate developers.

Contract Planning Services

Contract Planning Services founded in 1995, is an award-winning consulting firm and is considered to be a leader in the field of municipal ordinance work by its clients and peers. The firm is an Arizona corporation that specializes in the development of municipal zoning and land use ordinances, community planning, and public participation. The firm works with both large urban cities and small rural communities to develop the specific planning tools necessary to implement each community's unique vision. In addition to the development of ordinances, the firm provides municipal planning staff services to communities in the state of Arizona.

The firm has a "*client first*" philosophy and a business motto to go above and beyond their clients' expectations. Loras Rauch, AICP of Contract Planning Services will assist The Planning Center in all aspects of public outreach.

3. Staff Capabilities & Assignments

This section includes the Key Team Members Bio, their Roles & Responsibilities in the Town of Fountain Hills General Plan Update and at least two comparable projects in which the team member has played a significant role. The Team Members Resumes are included in the Appendix section. Project information is included in the previous section.

The Planning Center

Linda Morales, AICP, Qualifications, Role & Responsibilities: Linda is the owner and CEO of The Planning Center and has been a planning consultant for over 22 years. At The Planning Center, Linda has gained a wide range of consultant experience working for local, state and federal governments, non-profits, developers, builders and property owners on a variety of projects. Her diverse experience gives her a unique perspective that allows her to understand both jurisdictional and developer points of view, bringing a balanced perspective to projects. She successfully facilitated dialogue between stakeholders, developers, Arizona State Land Department, the Sonoran Institute and the Drachman Institute concerning conceptual plans for Sahuarita's SECAP, a model future city and has been directly involved in numerous general plan updates in Southern Arizona. Linda will assist in land use scenario building, analysis, and policy writing. **Related Experience:** Safford, Sahuarita, Nogales, El Mirage, Queen Creek, Douglas, Bisbee, and Pascua Yaqui Tribe general plans and Pima County and Kayenta Township comprehensive plans. **Percent of the Total Team Effort: 5%**

Jessica Sarkissian, AICP, LEED AP, Qualifications, Role & Responsibilities: Jessica is the principal overseeing the General Plan Project update. She serves as lead planner, coordinates outreach efforts and moderates high profile public participation programs. With more than 15 years of experience in the planning field, a unique background of public and private sector development and municipal volunteer experience, Jessica offers the local knowledge, bench strength and perspective needed for project success. Jessica specializes in rezonings, general and comprehensive plan amendments, variances, use permits, design review, site plan review, public outreach, text amendments and public meetings and presentations. Jessica has worked on a variety of projects from small scale residential and master planned communities, to multi-family, assisted living, commercial and industrial projects throughout the Phoenix metropolitan area. She works successfully with engineering firms, architects and land use attorneys to provide open communication and deliver successful results. Her project management skills allow her to keep complex planning projects under budget and on schedule, and her knowledge of the Town of Fountain Hills and its relationships with Town staff makes her an ideal Principal-in-Charge/Project Manager for this project. **Related Experience:** Town of Clifton General Plan (ongoing), Town of Gilbert 2010 General Plan, Fountain Hills Study Area for AZSLD, North Pinal Study Area for AZSLD, and City of Mesa Inner Loop Plan (ongoing). **Percent of the Total Team Effort: 20%**

Maria Masque, Qualifications, Role & Responsibilities: Maria will serve on this project coordinating public and community outreach and visioning for the Fountain Hills General Plan Update. With more than 27 years of experience preparing general plans, 19 of those in Arizona with The Planning Center, Maria has authored more than 50 General Plans and prepared numerous redevelopment and revitalization plans and design guidelines throughout Arizona and Florida. She has served as the lead planner/analyst and policy writer for all the general plans prepared by The Planning Center since 2000. Her areas of expertise include land planning, growth management sustainable agricultural conversion, technology/innovation and Smart City Design. She brings a regional economic development approach to planning and design. **Related Experience:** Safford, Sahuarita, Nogales, El Mirage, Queen Creek, Douglas, Bisbee, and Pascua Yaqui Tribe general plans and Pima County and Kayenta Township comprehensive plans. **Percent of the Total Team Effort: 10%**

Daniel Bradshaw, PLA, ASLA, Qualifications, Role & Responsibilities: A registered Landscape Architect in Arizona, Daniel leads the graphic communications, design and landscape architecture division of the firm. He is responsible for site, landscape, streetscape, trail system, wayfinding and park and sports facilities visioning, branding and design. Daniel has worked on varying scales of landscape and planning projects of various scope and sizes serving a variety of local, state, and national clients including international firms like FLAD Architects (graphic above) and NBBJ Architects' Seattle offices. He has also guided the creation of planning manuals, design guidelines and standards, including branding and theming packages. His specialties also include environmental graphic design, 3D Modeling, and site/architectural visualization. As a multi-talented professional and extraordinary presenter with exceptional artistic and graphic capabilities, he will work closely with Town of Fountain Hills Communications Department to create the branding conveying the distinct image and identity of the Town of Fountain Hills in all documentations and for incorporating the latest water harvesting, water reuse, irrigation, water conservation and habitat integration principles in the general plan policy framework. **Related Experience:** City of Safford and Town of Sahuarita general plans, SECAP, Pima County and Town of Kayenta comprehensive plans. **Percent of the Total Team Effort: 5%**

Brian Underwood, Qualifications, Role & Responsibilities: Brian's experience includes Geographic Information Systems (GIS) database management and mapping, regional development, web-based mapping applications, and demographic and socio-economic analysis. He will work closely with the Town of Fountain Hills GIS team to convey the work assignments enumerating all the mapping and analyses required to support the policy framework of the general plan. Brian also is a skillful presenter and facilitator with ample experience in community engagement and meeting facilitation. **Related Experience:** City of Safford and Town of Sahuarita general plans, SECAP, Pima Prosper: Pima County Comprehensive Plan mapping and analysis. **Percent of the Total Team Effort: 10%**

Amanda Bayham, Qualifications, Role & Responsibilities: Amanda's experience includes Geographic Information Systems (GIS) mapping, regional planning, and demographic and socio-economic analysis. She will assist Brian with the Town of Fountain Hills GIS project tasks for all the mapping and analyses further supporting the policy framework of the general plan. Amanda is also a key part of the team's research and data collection group and is skilled at quickly collecting and reviewing data for use in the plans analysis and review. **Related Experience:** City of Phoenix General Plan Update Research and Analysis, Town of Clifton General Plan (ongoing), Town of and City of Mesa Inner Loop Plan (ongoing), City of Phoenix Water Demographics forecasting analysis and mapping (ongoing), City of Scottsdale 2018 ADA Transition Plan. **Percent of the Total Team Effort: 15%**



*University of Arizona Tech Park at The Bridges Technology Precinct Plaza Concept,
Prepared by The Planning for FLAD Architects, Seattle.*

Bowman Consulting

Troy Peterson, P.E., Qualifications, Role & Responsibilities: Mr. Peterson is a Principal with Bowman Consulting with more than 24+ years of experience in civil engineering project design, planning, construction management, and project management. Throughout his career, Mr. Peterson has been involved in all facets of the planning, design, and construction of Master Planned Communities, and large infrastructure projects coupled with residential, commercial, public parks, and industrial developments. His expertise includes due diligence, planning, infrastructure analysis, engineering design, value engineering, and construction analysis. **Related Experience:** working in tandem with The Planning Center Troy has worked on the Fountain Hills Study Area for AZSLD, North Pinal Study Area for AZSLD, and City of Mesa Inner Loop Plan (ongoing). **Percent of the Total Team Effort: 5%**

John Gray, P.E., Qualifications, Role & Responsibilities: Mr. Gray is a Senior Project Manager with experience in residential, commercial, industrial, educational, and municipal projects. John's leadership has been developed through more than 32 years of civil engineering experience in civil engineering project design, planning, construction management, and project management. Throughout his career, Mr. Gray has been involved in all facets of the planning, design, and construction of residential, commercial and industrial site development projects. His expertise includes due diligence, planning, infrastructure analysis, engineering design, value engineering, and construction analysis. His experience includes preparing all phases of construction documents for commercial/industrial sites, residential, public works and institutional campus facilities. **Related Experience:** Northwind Chilled Water System, Phoenix, AZ, Ryan Road Sewer Line Expansion, Queen Creek, AZ, Ellsworth Road Widening, Queen Creek, Arizona, and Mesa Main Street Bus Rapid Transit and Arizona Avenue/ Country Club BRT City of Mesa, City of Chandler and Town of Gilbert, AZ. **Percent of the Total Team Effort: 10%**

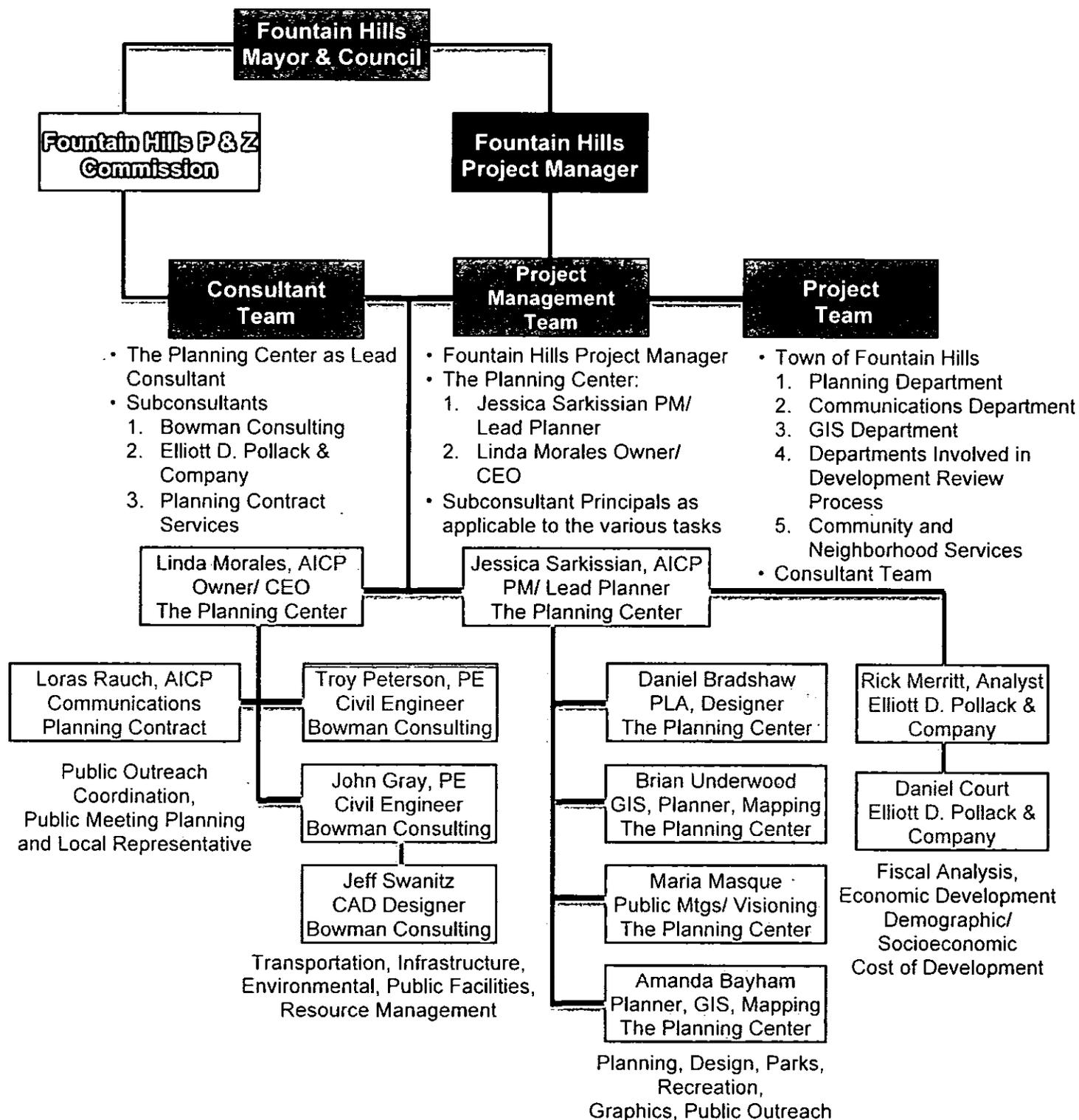
Elliott D. Pollack & Company

Rick Merritt, Qualifications, Role and Responsibilities: Rick Merritt is the President and one of the founders of Elliott D. Pollack & Company. Mr. Merritt is responsible for management of economic consulting assignments. Mr. Merritt has more than thirty-five years' experience in the fields of real estate development and consulting, City planning, and project management in the Phoenix area. Mr. Merritt specializes in economic and fiscal impact analysis, real estate market and financial feasibility, and land use analysis. He has supervised the completion of numerous market and feasibility studies of the retail office, industrial and residential real estate sectors. **Related Experience:** Conducted extensive data collection and research assignments into infrastructure investments; public policy; economic, demographic, and housing statistics; workforce development; development agreements; and numerous other economic and land projects for the Arizona State Land Department (AZSLD), the City of Mesa, the City of Phoenix, the City of Scottsdale, Town of Gilbert and many others. **Percent of the Total Team Effort: 10%**

Contract Planning Services

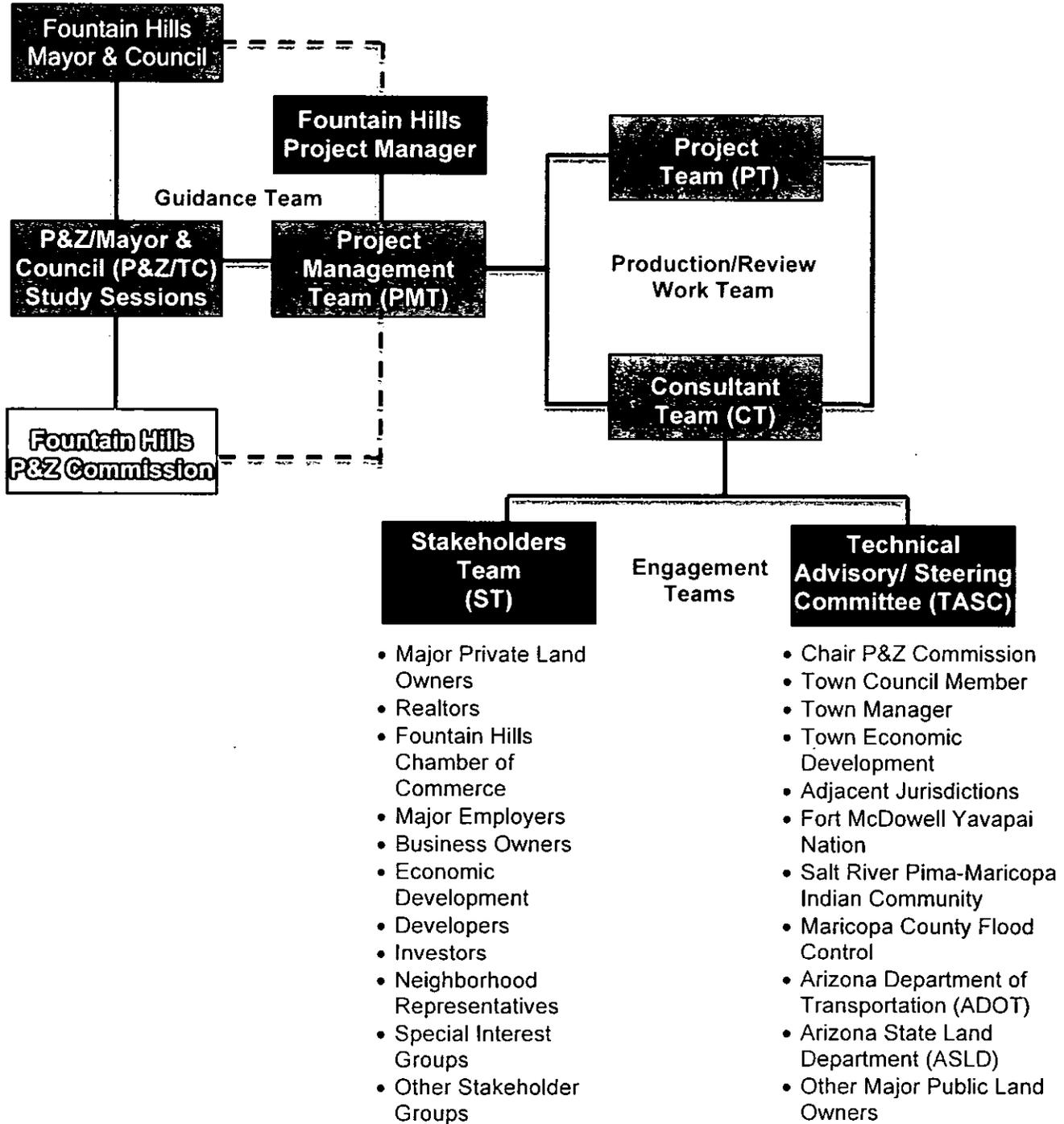
Loras Rauch, AICP, Qualifications, Roles & Responsibilities: Loras Rauch, AICP is founder and president for the firm, Contract Planning Services, and has over thirty years of experience in the fields of planning, community development, and project review. Loras provides planning, technical expertise, and project management for all of Contract Planning Services clients and is directly responsible for all projects in which the firm is involved. Loras has been responsible for the development of over 30 different land use ordinances for the firm. These projects have consisted of zoning ordinances, sign ordinances, subdivision ordinances, design standards and development guidelines for cities and towns throughout Arizona and Texas. In 2009, Loras completed the *Form-Based Codes Institute* training and is now certified to write and develop Form-Based Codes for communities. **Related Experience:** The Coconino County Comprehensive Plan Update 2015, The Gila River Indian Community Seven Districts Master Plan, The Surprise Heritage District Zoning Text Amendment (ongoing), and for several years organized the Town of Fountain Hills: World Town Planning Day" with Fountain Hills Middle School. **Percent of the Total Team Effort: 10%**

PROJECT ORGANIZATIONAL CHART A



ORGANIZATIONAL CHART B

Project Teams Organizational Chart



4. Project Understanding & Method of Approach

The Planning Center's **Comprehensive, Systematic, and Inclusive** approach to General Plan preparation resolves controversial issues and political climate by understanding the role of each component of the plan in the overall health, economic vitality, sustainability, and quality of life of the municipality. This holistic approach incorporates the community's strengths and opportunities while identifying physical and regulatory barriers and gaps at different scales, utilizing a multi-faceted framework that allows analysis at both macro (Town-wide) and micro (Town sub-region or character area) scales. It encompasses a comprehensive review of documents and in-depth analysis of opportunities and constraints performed in collaboration with Town staff. It phases the project in a systematic and inclusive manner that allows constituents to make informed decisions when engaging in the public participation and visioning processes.

Multi-Faceted Project Framework. The establishment of a multi-faceted project framework provides a solid foundation essential for project success. Lack of such organizing principles results in an overwhelming amount of data and analysis that serves no purpose and leads to confusion, frustration and either anger or apathy towards the planning process. Based on years of experience and continued refinement, four interactive frameworks are necessary to successfully manage the planning process and avoid unnecessary pitfalls.

1. **General Plan Framework:** Establishes the organizational structure of the project by organizing information into: 1) **Executive Summary**; 2) **Background and Current Conditions** including a summary of findings based on physical and regulatory opportunities and constraints analysis needed to support each element; 3) **General Plan Policy**, contains the Visioning Statement and policy framework for each Plan Elements, including Guiding Principles, Goals, and Policies; 4) **Plan Implementation Strategies** and 5) the **Public Participation Plan** adopted at earliest stages of the process. This user-friendly structure allows easy access to the different aspects of the project in accordance to user's needs. The Executive Summary serves as a marketing tool to attract major employers and developers. This streamlined policy provides an easy road map for decision makers, staff overseeing the development review process, developers and investors and allows administrative periodic updates of data and analysis that inform the General Plan Policy. It also clearly defines minor and major General Plan amendments as prescribed by the Arizona Revised Statutes in a manner that supports the Town's strategic vision.
2. **Project Management Framework:** Allows the planning process to effectively move smoothly and includes: 1) **Project Management Team (PMT)**, which includes **Consultant Team (CT)** principals and the Town Project Manager. The PMT ensures that all aspects of the project are clearly communicated to elected and appointed officials as well as Town and Consultant staff working day-to-day on the project. This Team will have one monthly meeting or conference call; 2) **Project Team (PT)** includes representatives of all the departments in the Town of Fountain Hills involved in the development review process, the Development Services Director, as well as Town staff and staff designated to the development of the various aspects of the project (GIS, communications, mapping, calculation, graphics, etc.) working collaboratively. The PT presents an opportunity to approach general plan components in a manner that enables a solid partnership between the different Town departments and the Consultant Team.
3. **Public Engagement Framework:** Includes: 1) **Technical Advisory/Steering Committee (TASC)**, which may include one representative from the Town Manager's Office, one (1) representative from the P&Z Commission and from Mayor and Council; representatives from adjacent jurisdictions, ASLD, ADOT, and other representatives and stakeholders acting in a technical advisory capacity offering guidance throughout the planning process; 2) **Stakeholders Team (ST)**, may include major private land owners, the Fountain Hills Chamber of Commerce, Fountain Hills School District, developers, both Native American Communities, business owners, Fountain Hills Sanitary District, EPCOR Water Company; the City of Scottsdale, and

neighborhood HOA representatives; 3) **Planning and Zoning Commission and Mayor and Council Study Sessions** open to the public under sunshine law at major project milestones; and 4) **Public Hearings**.



Public Participation and Community Outreach Approach. Successfully engaging Fountain Hills citizens to help them understand and contribute to the Town's General Plan Update requires reaching all segments of the Town's diverse community. The Planning Center will work collaboratively with local resident and land use planner Loras Rauch, AICP, to solidify a strategic and well-defined **Public Participation Plan** that aligns the best community engagement practices with the Town's goals of **transparency, inclusiveness, adaptability, and responsiveness**.

1. **Project Branding.** Our team will work with the Town's communication team and key stakeholders at early stages of the project to develop a unique and engaging identity for the General Plan Update that aligns with the Town's brand to utilize during the public outreach process. Designed to set the General Plan apart from previous efforts, the brand will inspire engagement. The brand will be reflected in all materials and activities used to engage and inform the public to create a General Plan theme.
2. **Methods of Engagement.**
 - a. **Public Meetings:** Public meetings would occur at major milestones when public understanding and consensus-building are important to maintain trust in the public process as provided in the Project Work Plan and Schedule section. Methods of engagement can include bilingual communication for Spanish speakers. The team includes two English/Spanish speakers/translators.
 - b. **Attendance at Community Events:** Attendance at Fountain Hills two (2) community events which may include the annual Fountain Hills Fall and Spring Festivals of Fine Arts and Crafts, the Thanksgiving Day Parade, the St. Patrick's Day Celebration, or the Easter Eggstravaganza can be an opportunity for public engagement and present opportunities to inform, engage and survey attendants.
 - c. **Youth Outreach:** Outreach to the local schools will provide opportunities to engage young residents as well as their parents as to what the Town needs. Our team has used a variety of methods to achieve this including online tools, elementary and middle school art exhibits and high school essay competitions as ways of engaging the Town younger residents.
 - d. **Digital Outreach:** We will utilize the Town's existing social media accounts such as Facebook, Twitter, Nextdoor, YouTube and LinkedIn as well as the Town website to engage residents of all ages, gather information through in person **surveys** and inform through **community conversations**.
 - e. **Project Updates:** Approaches to keeping community leaders, major stakeholders, Town appointed and elected officials and staff apprised and involved will include **TASC and ST meetings and P&Z/Town Council Study Sessions/public hearings** at major milestones to inform, foster understanding, and develop a sense of ownership that will help build a strong alliance of General Plan **Advocates** who will help foster support that leads to success on election day, when it is time to ratify the General Plan.

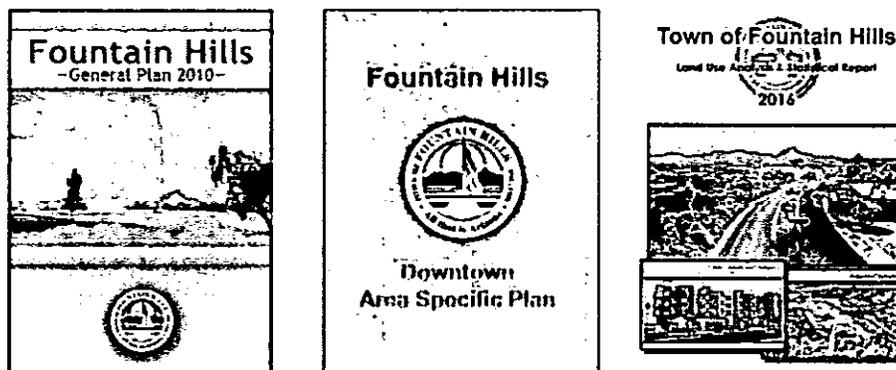
5. General Plan Scope of Work

Ongoing: Project Management/Coordination. Includes a monthly meeting with PMT, project accounting, prioritization, and quality control.

Task 1 – Finalization of Work Plan and Project Schedule. One (1) **Scoping Meeting** with designated Town PM and staff to finalize the Work Plan and Project Schedule, clearly define the responsibility of the Town and the Consultant, prepare project budget and execute project contract with the Town and subconsultant agreements.

Task 2 - General Plan Community Engagement/Public Participation Plan (PPP). Preparation of the final PPP further finetuning the approach and methods provided in earlier pages with Town input to provide meaningful, effective, early and continuous public engagement including: 1) Legislative Framework (Arizona Statutes Requirements for public outreach); 2) General Plan Teams and Committees Structure; 3) Meeting Types, Frequency and Format including Town Department Heads Interviews, Community Events, and Open Houses ; 4) Communications Protocol; 5) Webpage Content and Survey Management; 6) Strategy for Maximizing Outreach; 7) Metrics for Measuring Success; 8) Coordination with Other Ongoing Town Updates/ Processes; 9) Development of Stakeholders Lists; and 10) Adoption of the PPP by Mayor and Council. Our proposal has accounted for two (2) Open House/Workshop Meetings and two (2) Community Events for public outreach in addition to the required Commission and Town Council meetings detailed in Task 6.

Task 3 – General Plan Background and Current Conditions Volume Preparation. This technical report summarizes findings from a collaborative PT effort in written, graphic, mapping, and table formats. It includes: 1) review of pertinent documents including the Fountain Hills Zoning Ordinance, the Fountain Hills 2010 General Plan and amendments, the Fountain Hills Subdivision Ordinance, the Fountain Hills Strategic Plan, the Fountain Hills Public Art Master Plan, and the Fountain Hills Land Use Analysis & Statistical Report; 2) demographics and socio-economic analysis; 3) fiscal and economic development analysis; 4) analysis of existing land use and vacant lands; 5) public facilities, services and infrastructure needs (water, wastewater, solid waste, transportation, police, fire, health care) analysis; 4) environmental infrastructure analysis (water, air, land, habitat); 6) parks and recreation assessment; 7) GIS map generation supporting all elements; 8) physical and regulatory opportunities and constraints analysis (major land owners, topography, hydrology, economic development corridors, zoning, overlays, etc.); 9) Review/input phase. This volume serves as the backbone of the General Plan. It identifies major growth areas, planning areas, and redevelopment/infill areas, areas suitable for compact development and mixed use, and distinct character areas of the Town.



The documents utilized in this phase include the Land-Use Analysis and Statistical Report, Zoning Ordinance, Subdivision Ordinance, Adopted Town Budget for FY '18-'19, 2010 General Plan and amendments thereto, and the Strategic Plan. Once the Background and Current Conditions assessment is completed, the Project Team works with the community to solicit input. Such input results in the preparation of the Vision Statement, Guiding Principles, and goals for all elements of the General Plan.



Task 4 – Theming and Visioning. Working collaboratively, the PT will solicit input from the Fountain Hills community in a public workshop. The workshop will aim at identifying the community vision and overarching guiding principles. The results of this workshop will provide the foundation to create a project vision and theme that is embraced and supported by the Town.

Task 5 – Draft General Plan Policy Volume. Based on results from Tasks 2, 3, and 4 and public input, the team will prepare the General Plan Policy. This will include at minimum: 1) Executive Summary; 2) Introduction and Overview; 3) General Plan Framework; 4) Strategic Vision Statement; 5) Overarching Principles; 6) All required and optional Elements; 7) Goals, Policies and Implementation Measures for each element; 9) Future Land Use Scenarios (Three (3) Alternatives), 10) Review/input phase; 11) Transmittal of revised version to all agencies as part of the mandatory 60-day review.

Task 6 – Final General Plan Policy Volume and Adoption. Based on information obtained in previous phases and comments provided by the different agencies during the 60-day review period, and working closely with the Project Team, the Consultant Team will prepare the Final General Plan Policy Volume. The project culminates with a maximum of two (2) public hearings with the P&Z Commission for recommendation; and a maximum of two (2) public hearings with Mayor and Council for adoption via resolution and the transmittal of all deliverables listed in the RFP in hard copy, PDF and Word formats per the RFP.

The General Plan Work Plan Schedule/Major Milestones is included on the next page. The specific General Plan tasks, descriptions, deliverables and the methods, platforms, and media proposed as part of the Public Involvement Plan are discussed in previous pages.

6. Conclusion

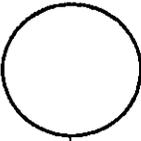
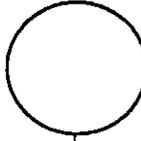
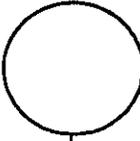
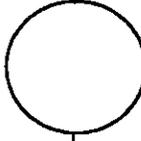
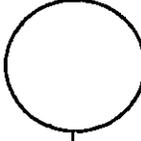
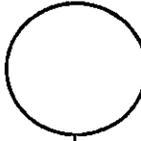
Our goal is to operate as an extension of the Town of Fountain Hills staff. The Planning Center maintains open dialogue with our clients. We will work with the Project Team to ensure that the Fountain Hills General Plan Update reflects the vision of Fountain Hills.

The Planning Center appreciates the opportunity to submit this proposal for the Town of Fountain Hills General Plan Update. Our team is well-suited for this update as it is directly in line with recent General Plans we have completed as well as our specialization in public participation and outreach. We realize the critical importance of this project to the Town and its residents, and we wish to reiterate our desire and capabilities to perform the requisite work. We have a superior project team and flexible resources to respond to this project, and are **ready to begin work immediately** upon receiving Notice to Proceed.

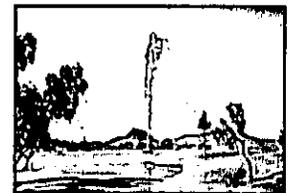
We can ensure the Town of Fountain Hills that The Planning Center's team will provide the required services in a manner that exceeds the Town's expectations. Please contact Jessica Sarkissian, Principal/Project Manager, at 480.750.7300 with any questions concerning The Planning Center or the preceding proposal.



General Plan Work Plan Schedule/Major Milestone

Month 1 August 2018	Month 1-2 August-September 2018	Month 1-3 August-October 2018	Months 2-6 August-January 2018-2019	Months 7-12 February-July 2019	Months 14 -17 September-December 2019
					
TASK 1	TASK 2	TASK 3	TASK 4	TASK 5	TASK 6
Finalization and Work Plan and Project Schedule Detailed Work Assignments Major Stakeholders Lists Contracts Two (2) Scoping Meetings with PMT & CT	Public Participation Plan Preparation and Adoption by Mayor and Council Formation of TASC, ST, (Social Media/ Communications) Department Head Interviews Meetings PMT, PT, CT	Project Information Handout Strategy Meetings PMT, PT, CT Visioning Process Project Kickoff Meeting Project Brand	Analysis of Opportunities and Constraints General Plan Background and Current Conditions Volume Preparation TASC and ST Meetings P&Z/Council Study Session/PH Public Events/ Open House/ Other	Draft General Plan Policy Volume & Alternative Future Land Use Scenarios Preparation TASC and ST Meetings P&Z/ Council Study Session/PH Open House/ Selection of Preferred Future Land Use Revisions and Transmittal to Agencies for 60-day Agency Review (Month 12)	Final General Plan Policy Volume TASC and ST Meetings P&Z/ Council Study Session P&Z Commission PHs Mayor and Council Adoption PH

← Project Management/Project Coordination, Monthly PMT Meetings →



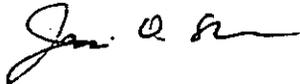
APPENDIX A: VENDOR INFORMATION FORM

SECTION A

TOWN OF FOUNTAIN HILLS
DEVELOPMENT SERVICES DEPARTMENT
DS 2018-02

IV. VENDOR INFORMATION FORM

By submitting a Proposal, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Professional Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

<u>The Planning Center</u>	<u>86-1000076</u>
VENDOR SUBMITTING PROPOSAL	FEDERAL TAX ID NUMBER
<u>Jessica Sarkissian, Principal</u>	
PRINTED NAME AND TITLE	AUTHORIZED SIGNATURE
<u>1270 E Broadway Rd Suite 203</u>	<u>(480)750-7300</u>
ADDRESS	TELEPHONE FAX #
<u>Tempe AZ 85282</u>	<u>June 20, 2018</u>
CITY STATE ZIP	DATE
WEB SITE: <u>azplanningcenter.com</u>	E-MAIL ADDRESS: <u>jessica@azplanningcenter.com</u>

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES (check appropriate item(s):

- Small Business Enterprise (SBE)
 Minority Business Enterprise (MBE)
 Disadvantaged Business Enterprise (DBE)
 Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise?
 yes

If yes, please provide details and documentation of the certification.



ADOT



City of Phoenix

Arizona Unified Certification Program

This is to certify that

under Title 49, Part 26 of the Code of Federal Regulations, and

The TPC Group Inc DBA The Planning Center

is a Certified Disadvantaged Business Enterprise (DBE)
in the following specialty/specialties:

NAICS 541320: LAND USE PLANNING SERVICES
NAICS 541320: LANDSCAPE ARCHITECTS' OFFICES
NAICS 541320: LANDSCAPE ARCHITECTURAL SERVICES
NAICS 541320: URBAN PLANNERS' OFFICES
NAICS 541320: URBAN PLANNING SERVICES
NAICS 541370: SURVEYING AND MAPPING (EXCEPT GEOPHYSICAL) SERVICES
NAICS 541370: SURVEYING AND MAPPING SERVICES (EXCEPT GEOPHYSICAL)
NAICS 541620: ENVIRONMENTAL CONSULTING SERVICES
NAICS 541990: ALL OTHER PROFESSIONAL, SCIENTIFIC, AND TECHNICAL SERVICES

Becky Mellor

Becky Mellor
Business Enterprise Compliance Specialist
City of Tucson Department of Procurement

Initial Certification Date: October 18, 2012

This certification is valid as of the date shown above and continues to remain valid provided that the firm meets the on-going programmatic standards and fulfills the annual update requirement to remain in good standing as a DBE.
Please check our website at www.adot.dbeystem.com to verify the firms continuing eligibility.



City of Tucson
Department of Procurement

Small Business Enterprise Certificate

This is to Certify that

The TPC Group Inc DBA The Planning Center

NAICS 541320: LAND USE PLANNING SERVICES
NAICS 541320: LANDSCAPE ARCHITECTS' OFFICES
NAICS 541320: LANDSCAPE ARCHITECTURAL SERVICES
NAICS 541320: URBAN PLANNERS' OFFICES
NAICS 541320: URBAN PLANNING SERVICES

NAICS 541370: SURVEYING AND MAPPING (EXCEPT GEOPHYSICAL) SERVICES
NAICS 541370: SURVEYING AND MAPPING SERVICES (EXCEPT GEOPHYSICAL)
NAICS 541620: ENVIRONMENTAL CONSULTING SERVICES

Becky Mellor 541990: ALL OTHER PROFESSIONAL, SCIENTIFIC AND TECHNICAL SERVICES

Becky Mellor
Business Enterprise Compliance Specialist
City of Tucson Department of Procurement

~~Valid until 10/18/2012~~
Certified SBE under the City of Tucson SBE Program,
and has met the certification criteria established by Article XIII,
City of Tucson Department of Procurement Chapter 28 of the
Tucson Code, in the specialty/specialties listed.

APPENDIX B: KEY TEAM MEMBERS RESUMES



Recent General/ Comprehensive Plans

Envision Safford: City of
Safford General Plan, AZ
(2016)

Pima Prospers: Pima County
Comprehensive Plan, AZ
(2015)

Aspire: Town of Sahuarita
General Plan, AZ (2015)
Sahuarita East Conceptual
Area Plan (SECAP), AZ
(2015)

Tucson Streetcar Land Use
and Development
Implementation Plan, Tucson,
AZ (2014)

Kayenta Comprehensive Plan
& Zoning Code, Navajo
Nation, AZ (2013)

City of El Mirage General
Plan,
El Mirage, AZ (2011)

Certifications

American Institute of Certified
Planners (AICP)

Linda Morales, AICP, CEO/Owner

Project Management/Planning/Public Outreach
(22 Years with The Planning Center – Tucson Office)

Linda is the owner and CEO of The Planning Center and has been a planning consultant for over 22 years. At The Planning Center, Linda has gained a wide range of consultant experience working for local, state and federal governments, non-profits, developers, builders and property owners on a variety of projects. She has successfully facilitated dialogue between stakeholders, developers, Arizona State Land Department, the Sonoran Institute and the Drachman Institute concerning conceptual plans for Sahuarita's SECAP, a model future city and has been directly involved in numerous general plan updates in Southern Arizona. Her diverse experience gives her a unique perspective that allows her to understand both jurisdictional and developer points of view, bringing a balanced perspective to projects. Linda has participated in the preparation of landmark specific plans, including Continental Ranch, Gladden Farms, Dove Mountain, Sky Ranch, and many other projects giving her an in-depth experience of the Town that is seldom found. Acting as the Project Principal-in-Charge for this Update, Linda will assist in land use scenario building, analysis, and policy writing.

Project Awards

- Envision Safford: City of Safford General Plan-APA Arizona Best General Plan (2017) and APA Arizona Best Public Participation Plan (2016);
- Pima Prospers: Pima County Comprehensive Plan- APA Arizona Best Comprehensive Plan (2015) and Metropolitan Pima Alliance Common Grounds Award (2015)
- Aspire: Town of Sahuarita General Plan-APA Arizona Best General Plan (2015)
- Sahuarita East Conceptual Area Plan (SECAP) APA Arizona Best Planning Project (2015) and Common Grounds Award 2015
- City of Tucson Streetcar Land Study and Implementation Plan-APA Arizona Best Public Participation Plan (2014)
- Kayenta Township, Navajo Nation, Arizona Comprehensive Plan and Zoning Ordinance-APA Arizona Best Comprehensive Plan (2014).
- El Mirage General Plan, El Mirage, Arizona-APA Arizona Best Public Participation (2009) and Valley Forward Best Livable Community Plan Merit Award (2010)

Education

- MS, Planning, University of Arizona, 1996
- BS, Business Administration, Major in Finance, University of Arizona, 1990



Recent General/ Comprehensive Plans

Town of Gilbert General Plan,
Gilbert AZ (2011)
Town of Florence General
Plan, Florence, AZ (2011)
Pinal County Comprehensive
Plan, Pinal, AZ (2009)
Town of Clifton General Plan,
Clifton, AZ (In progress)

Certifications

American Institute of Certified
Planners (AICP)

Leadership in Energy and
Environmental Design (LEED)

Jessica Sarkissian, AICP, LEED

Principal/ Land Planning/Facilitation

(2 Years with The Planning Center – Tempe Office)

Jessica leads The Planning Center's Tempe office. Jessica brings a unique background with experience in public and private sector planning. She conducts rezonings, general and comprehensive plan amendments, variances, use permits, design review, site plan review, public outreach, text amendments and public meetings and presentations.

Jessica has worked on a variety of projects from small scale residential and master planned communities, to multi-family, assisted living, commercial and industrial projects throughout the Phoenix metropolitan area including Pinal County. She works successfully with engineering firms, architects and land use attorneys to provide open communication and efficiency with successful results and has participated on several general plan efforts in the Phoenix and Pinal County areas as P&Z member and committee member.

Currently, Jessica sits on the City of Mesa Planning and Zoning Board and the Arizona Planning Association Board. Previously she was a City of Mesa Board of Adjustment member as well as a Town of Gilbert Planning Commissioner and Zoning Hearing Officer.

General Plan Involvement

- Town of Gilbert General Plan Update (2011) participated as P&Z and Steering Committee member. Reference: Kyle Mieras, Director of Development Services (408) 503-6705;
- Town of Florence General Plan (2011) participated as member of the stakeholders group while at CMX. Reference: Mark Eckhoff, former Planning Director (602) 686-1323.
- Pinal County Comprehensive Plan (2009) participated as member of stakeholders group representing CMX. Reference: Peggy Fiandaca, retired PSA Inc., owner (480) 816-1811
- Town of Clifton General Plan (in progress) Principal-in-Charge/Project Manager.

Education

- MA, Community Planning, Northern AZ University
- BS Regional Development, University of Arizona



Recent General/ Comprehensive Plans

Envision Safford: City of Safford General Plan, AZ (2016)
 Pima Prospers: Pima County Comprehensive Plan, AZ (2015)
 Aspire: Town of Sahuarita General Plan, AZ (2015)
 Tucson Streetcar Land Use and Development Implementation Plan, Tucson, AZ (2014)
 Kayenta Comprehensive Plan & Zoning Code, Navajo Nation, AZ (2013)
 City of El Mirage General Plan, El Mirage, AZ (2011)

Maria Masque, Principal

Principal/ Planning/Analysis/Public Outreach
 (18 Years with The Planning Center – Tucson Office)

Maria is the principal overseeing the community and regional planning division of the firm. She serves as lead planner, coordinates outreach efforts and moderates high profile public participation programs for long-range planning projects. With more than 27 years of experience preparing general plans, 19 of those in Arizona with The Planning Center, Maria has authored more than 50 General Plans and prepared numerous redevelopment and revitalization plans and design guidelines throughout Arizona and Florida. She has served as the lead planner/analyst and policy writer for all the general plans prepared by The Planning Center since 2000. Her areas of expertise include land planning, growth management sustainable agricultural conversion, economic development and technology/innovation. She brings a regional economic development approach to planning and design. She will be the lead planner and policy writer for this update and will assist in public outreach coordination. Maria is bilingual (English/Spanish).

Project Awards

- Envision Safford: City of Safford General Plan-APA Arizona Best General Plan (2017) and APA Arizona Best Public Participation Plan (2016);
- Pima Prospers: Pima County Comprehensive Plan- APA Arizona Best Comprehensive Plan (2015) and Metropolitan Pima Alliance Common Grounds Award (2015)
- Aspire: Town of Sahuarita General Plan-APA Arizona Best General Plan (2015)
- Sahuarita East Conceptual Area Plan (SECAP) APA Arizona Best Planning Project (2015) and Common Grounds Award 2015
- City of Tucson Streetcar Land Study and Implementation Plan-APA Arizona Best Public Participation Plan (2014)
- Kayenta Township, Navajo Nation, Arizona Comprehensive Plan and Zoning Ordinance-APA Arizona Best Comprehensive Plan (2014).
- El Mirage General Plan, El Mirage, Arizona-APA Arizona Best Public Participation (2009) and Valley Forward Best Livable Community Plan Merit Award (2010)

Education

- M.A. Urban and Regional Planning, University of Florida, 1994
- B.A. College of Liberal Arts and Sciences, Anthropology/Peoples of the Southwest, 1986
- Architecture coursework, University of Florida, 1983



Recent General/ Comprehensive Plans

Envision Safford: City of
Safford General Plan, AZ
(2016)

Pima Prospers: Pima County
Comprehensive Plan, AZ
(2015)

Aspire: Town of Sahuarita
General Plan, Sahuarita, AZ
(2015)

Tucson Streetcar Land Use
and Development
Implementation Plan, Tucson,
AZ (2014)

Kayenta Comprehensive Plan
and Zoning Code, Navajo
Nation, AZ (2013)

Professional Registrations
PLA Arizona Registration
#58092

Daniel Bradshaw, RLA

Landscape Architecture/Design/Illustrations
(7 Years with The Planning Center – Tucson Office)

A registered Landscape Architect in Arizona, Daniel leads the graphic communications, design and landscape architecture division of the firm. He is responsible for site, landscape, streetscape, trail system, wayfinding and park and sports facilities visioning, branding and design. Daniel has worked on varying scales of landscape and planning projects of various scope and sizes serving a variety of local, state, and national clients including international firms like FLAD Architects (graphic above) and NBBJ Architects' Seattle offices. He has also guided the creation of planning manuals, design guidelines and standards, including branding and theming packages. His specialties also include environmental graphic design, 3D Modeling, and site/architectural visualization. As a multi-talented professional and extraordinary presenter with exceptional artistic and graphic capabilities, he will be work closely with the Town of Fountain Hills Communications Department to create the branding conveying the distinct image and identity of the Town of Fountain Hills in all documentations and for incorporating the latest water harvesting, water reuse, irrigation, water conservation and habitat integration principles in the general plan policy framework. Daniel is bilingual (English/Spanish).

Project Awards

- Envision Safford: City of Safford General Plan-APA Arizona Best General Plan (2017) and APA Arizona Best Public Participation Plan (2016);
- Pima Prospers: Pima County Comprehensive Plan- APA Arizona Best Comprehensive Plan (2015) and Metropolitan Pima Alliance Common Grounds Award (2015)
- Aspire: Town of Sahuarita General Plan-APA Arizona Best General Plan (2015)
- Sahuarita East Conceptual Area Plan (SECAP) APA Arizona Best Planning Project (2015) and Common Grounds Award 2015
- City of Tucson Streetcar Land Study and Implementation Plan-APA Arizona Best Public Participation Plan (2014)
- Kayenta Township, Navajo Nation, Arizona Comprehensive Plan and Zoning Ordinance-APA Arizona Best Comprehensive Plan (2014).

Education

- MLA, Landscape Architecture, University of Arizona, 2010
- BS, Business Management, Brigham Young University-Idaho, 2007



Recent General/ Comprehensive Plans

Envision Safford: City of
Safford General Plan, AZ
(2016)

Pima Prospers: Pima County
Comprehensive Plan, AZ
(2015)

Aspire: Town of Sahuarita
General Plan, AZ (2015)
SECAP, Sahuarita, AZ (2015)
City of Tucson Streetcar
Land Study and
Implementation Plan (2014)

Brian Underwood

Planning Director/GIS Mapping and Analysis
(5 Years with The Planning Center – Tucson Office)

Brian has over 7 years of experience as a planner and GIS analyst. His strengths include Geographic Information Systems (GIS) block level analyses and mapping using socioeconomic indicators, watershed and non-point source pollution modelling, viewshed analysis, database management, and web-based mapping applications. Brian also enhances the public planning and participation process by creating maps and graphics using GIS, aerial imagery and AUTOCAD software. He successfully partners with jurisdictional staff in the preparation of all GIS and analysis components of general plans.

Other areas of expertise include historic preservation planning, land use plan preparation and entitlement processing, including site analyses, specific plans, comprehensive and general plan amendments, planned area developments (PADs), master plans, variances, annexations and conditional use permits. He assists on the preparation of complex grant processes and site feasibility analysis. He will work closely with the Town of Fountain Hills a GIS team to convey the work assignments enumerating all the mapping and analyses required to support the policy framework of the general plan. Brian also is a skillful presenter and facilitator with ample experience in community engagement and meeting facilitation.

Project Awards

- Envision Safford: City of Safford General Plan-APA Arizona Best General Plan (2017) and APA Arizona Best Public Participation Plan (2016);
- Pima Prospers: Pima County Comprehensive Plan- APA Arizona Best Comprehensive Plan (2015) and Metropolitan Pima Alliance Common Grounds Award (2015)
- Aspire: Town of Sahuarita General Plan-APA Arizona Best General Plan (2015)
- Sahuarita East Conceptual Area Plan (SECAP) APA Arizona Best Planning Project (2015) and Common Grounds Award 2015
- City of Tucson Streetcar Land Study and Implementation Plan-APA Arizona Best Public Participation Plan (2014)

Education

- BS, Regional Development, University of Arizona, 2010
- MS, Planning, University of Arizona, 2012



Recent General/ Specific Area Plans

City of Buckeye Downtown
Specific Area Plan, Buckeye,
AZ (2018)

City of Phoenix General Plan,
Phoenix AZ (2017)

Town of Clifton General Plan,
Clifton, AZ (In progress)

Affiliations

American Planning Association
(APA)

Arizona Planning
Association (AZAPA)

Amanda Bayham

Land Planning/ GIS Mapping and Analysis

(0.5 Years with The Planning Center – Tempe Office)

Amanda Bayham is a land planner in the Tempe office with experience working for the City of Phoenix and City of Scottsdale on various projects including the latest City of Phoenix General Plan Update "Centers Analysis" and the City of Scottsdale ADA Transition Plan, in which she conducted site visits and inspections to document the current conditions of sidewalks and pedestrian circulation.

Amanda has experience with GIS analysis and mapping, specifically with ArcGIS. Community outreach and the public participation process have been critical through past projects, such as the City of Buckeye Downtown Specific Area Plan and the Town of Clifton General Plan.

General Plan Involvement

- Town of Buckeye Downtown Specific Area Plan (2018) participated as Masters project for ASU. Reference: Terri Hogan, AICP, Planning Director (623) 349-6221;
- Town of Clifton General Plan (in progress) Principal-in-Charge/Project Manager.

Education

- MUEP, Urban and Environmental Planning, Arizona State University
- BSP, Planning Arizona State University

Professional Education

- MBA, Business Administration, WP Carey School of Business, Arizona State University, 2008
- BS, Civil Engineering, Utah State University, 1994
- BA, Business Management, Utah State University, 1994

Professional Registrations

- Professional Engineer, Arizona #32334

Professional Associations

- American Society of Civil Engineers
- Board Member of the City of Mesa Transportation Advisory Board
- East Valley Partnership Transportation Committee
- East Valley Partnership Economic Development Committee

Areas of Expertise

- Project Management / Oversight
- Master-Planned Communities
- Land Planning
- Entitlement Processing
- Municipal Capital Improvement Projects
- Large-scale Infrastructure Design & Improvements
- Cost Estimating
- Value Engineering
- Construction Administration & Inspection
- Commercial / Retail Expertise
- Due Diligence

Mr. Peterson is a principal with Bowman Consulting with more than 24+ years of experience in civil engineering project design, planning, construction management, and project management. Throughout his career, Mr. Peterson has been involved in all facets of the planning, design, and construction of Master Planned Communities, and large infrastructure projects coupled with residential, commercial, public parks, and industrial developments. His expertise includes due diligence, planning, infrastructure analysis, engineering design, value engineering, and construction analysis.

Superstition Vistas, Phase 1 - Arizona State Land Department

Inner Loop Land Use Study, Mesa Gateway Strategic Plan - Mesa, Arizona

Layton Lakes Master Planned Community - Chandler, Arizona

Legends Arterial and Collector Roadway Improvements - Casa Grande, Arizona

Queen Creek Station - Queen Creek, Arizona

Rhythm - Chandler, Arizona & Rhythm North - Tempe, Arizona

Ellsworth Road Widening - Queen Creek, Arizona

Mesa Arterial Streets Reconstruction - City of Mesa, Arizona

Fulton Ranch Master Planned Community and Arizona Avenue (SR 87), Ocotillo Road to Chandler Heights Road - Chandler, Arizona

Ray Road Street Improvements - City of Mesa, Arizona

Hendrix Pointe Estates - Mesa, Arizona

American Furniture Warehouse - Gilbert, Arizona

FedEx Distribution Center - Chandler, Arizona

Champion Academy - Chandler, Arizona

Painted Desert Montessori - Buckeye, Arizona

City Gate - Gilbert, Arizona

South Mountain Park - Phoenix, Arizona

Playa Margarita Park - Phoenix, Arizona

Classic and Fine Arts Academy (CAFA) - Gilbert, Arizona

American Leadership Academy - Gilbert, Arizona

Legacy at Freeman Farms - Gilbert, Arizona

Professional Education

- BS, Civil Engineering; Michigan State University, 1983

Professional Registrations

- Professional Engineer, Arizona #22868

Areas of Expertise

- Project Management / Oversight
- Land Planning
- Entitlement Processing
- Cost Estimating
- Value Engineering
- Commercial Design Experience
- Due Diligence
- Infrastructure Design
- Roadways
- Water and Wastewater
- Utility Coordination
- Right-of-Way
- Traffic Signing and Marking
- Permitting
- Roadway Lighting
- Construction Phasing
- Traffic Control Procedures
- Construction Administration
- Public Involvement
- Agency Coordination

Mr. Gray is a Senior Project Manager with experience in residential, commercial, industrial, educational, and municipal projects. John's leadership has been developed through more than 32 years of civil engineering experience in civil engineering project design, planning, construction management, and project management. Throughout his career, Mr. Gray has been involved in all facets of the planning, design, and construction of residential, commercial and industrial site development projects. His expertise includes due diligence, planning, infrastructure analysis, engineering design, value engineering, and construction analysis. His experience includes preparing all phases of construction documents for commercial/industrial sites, residential, public works and institutional campus facilities. He has an intricate knowledge of the City of Phoenix processes and the Planning & Development Department design standards. His experience has led to successful projects and satisfied clients.

Ryan Road Sewer Line - Queen Creek, Arizona

Ellsworth Road Widening - Town of Queen Creek, Arizona

University Village - Tempe, Arizona

La Sentiero Phase 3 - Queen Creek Arizona

Monteverde Apartment Complex - Phoenix, Arizona

Monte Viejo - Phoenix, Arizona

Pepsi Bottling and Distribution Center Expansion - Phoenix, Arizona

Superstition Springs Park and Ride Expansion and Transit Center - City of Mesa

Holsum Bakery Expansion - Phoenix, Arizona

Stanford Drive Improvements - Town of Paradise Valley, Arizona

Freeport McMoRan Center (Formerly One Central Park East) - Phoenix, Arizona

City of Phoenix City Hall, Cesar Chavez Plaza & Orpheum Theatre Restoration - Phoenix, Arizona

Northwind Chilled Water System - Phoenix, Arizona

America West Arena (Formerly Phoenix Suns Arena) and Jefferson Street Realignment - Phoenix, Arizona

City of Phoenix Police Training Academy Expansion - Phoenix, Arizona

Madera - Queen Creek, Arizona

Arcadia Crossings - Chandler, Arizona

Montage Condominiums - Phoenix, Arizona

The Retreat at Sycamore Farms - Surprise, Arizona



Richard Merritt

Economic Development Specialist/ President
(30 Years with Elliott D. Pollack & Company – Scottsdale Office)

Rick Merritt is President and one of the founders of Elliott D. Pollack & Company, a real estate and economic consulting firm that provides consultation on all aspects of the Arizona economy with specialization in the real estate market. Mr. Merritt is responsible for management of real estate and economic consulting assignments for the Company. He also serves as Project Manager for a number of real estate development projects and investments affiliated with Partnerships formed by Elliott D. Pollack. Mr. Merritt has more than thirty-five years of experience in the fields of real estate development and consulting, city planning, and project management.

In the consulting field, Mr. Merritt specializes in economic and fiscal impact analysis, real estate market and financial feasibility, and housing market analysis. Some of his significant accomplishments are management of economic and fiscal impact studies of Bank One Ballpark in Downtown Phoenix and the Arizona Tourism and Sports Authority, the entity charged with constructing a multi-purpose stadium for the Fiesta Bowl and Arizona Cardinals in Glendale. He has supervised the completion of numerous market and feasibility studies of the retail office, industrial and residential real estate sectors. Mr. Merritt authored the Arizona Affordable Housing Profile, a study funded by HUD and the Arizona Department of Housing, which examined the housing inventory in each community and county in the State. He also was project manager for the Mesa Housing Master Plan Update and the Housing Market Assessment of the Resolution Copper Area.

Prior to his present employment, Mr. Merritt served as Land Development Manager for The Northern Equities Company, the developer of the Borgata of Scottsdale, with responsibility for planning, engineering and construction of the Company's projects. From 1981 through 1985, Mr. Merritt served as Planning Director and Manager of the Community Development Department for the Town of Gilbert, Arizona.

He is a Member of the American Planning Association and is an active member in Valley Partnership and Lambda Alpha (LAI), an international land economics fraternity. He is also Treasurer and Board Member of LAI. Mr. Merritt has been a lecturer at a number of economic and planning functions and a guest speaker at the Arizona Governor's Conference on Rural Development and Economic Planning and the annual Arizona Planning Conference.

Education

- BCP, Community Planning, University of Cincinnati
- MBA, Arizona State University

Loras P. Rauch, AICP**Contract Planning Services**

Serving Arizona Cities & Towns

President • Fountain Hills, Arizona
480.221.3764 • cps-loras@cox.net

Loras Rauch is founder and president for the firm, Contract Planning Services, and has over thirty years of experience in the fields of planning, community development, and project review. Loras provides planning, technical expertise, and project management for all of Contract Planning Services clients and is directly responsible for all projects in which the firm is involved. Loras has been responsible for the development of over 30 different land use ordinances for the firm. These projects have consisted of zoning ordinances, sign ordinances, subdivision ordinances, design standards and development guidelines for cities and towns throughout Arizona and Texas. In 2009, Loras completed the *Form-Based Codes Institute* training and is now certified to write and develop Form-Based Codes for communities.

Education

- AICP, Continuing Education Certification Maintenance
- Form-Based Codes Institute, Form-Based Code Training Series
- B.S.D. Urban Planning, College of Architecture, Arizona State University

Professional Memberships & Certifications

- Form-Based Codes Institute – member since 2009
- American Institute of Certified Planners (AICP) - member since 1993
- American Planning Association - member since 1985
- Arizona Planning Association – member since 1985

Professional Awards

- Arizona Planning Association “Best Comprehensive Plan 2017 – Coconino County Comprehensive Plan”
- Arizona Planning Association “Best Public Education Project 2003 – Fountain Hills World Town Planning Day”
- Arizona Planning Association “Best Ordinance 2000 - Superior Zoning Ordinance”
- Arizona Planning Association “Best Ordinance 1997 - Queen Creek Subdivision Ordinance”

Appointments

- Arizona Planning Association (AzAPA) Board of Directors; liaison to Western Planner Resources, currently
- Western Planner Resources Board of Directors; Arizona representative, currently
- AzAPA; Vice President 2017 Conference, Conference Chairman 2016-2017
- AzAPA; 2016 National Conference Host Committee & Opening Reception Chair, 2014-2016
- AzAPA; Awards Committee, 1998 - 2010
- World Town Planning Day Coordinator – Fountain Hills Event; 1999 - 2004
- Town of Fountain Hills McDowell Mountain Preservation Commissioner, 1996 - 1998
- Fountain Hills Civic Association Board of Directors, 1997 and 1998

EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
THE PLANNING CENTER

[Scope of Work]

See following page(s).

Scope of Work



FOUNTAIN HILLS 2020 GENERAL PLAN UPDATE

May 2, 2018

SCOPE OF WORK

GENERAL PLAN UPDATE

May 2, 2018

I. Introduction

The Town of Fountain Hills is requesting sealed proposals for an update of the General Plan 2010 (the "General Plan") from qualified firms. The revised plan must comply with all applicable state statutes and particularly, the Growing Smarter legislation. The planning process will include an efficient and effective public participation program. The selected firm will also be responsible for determining community values and translating those values into realistic goals and objectives. The updated plan will include a clear and concise land use map that can be used by staff and decision makers in evaluating development applications.

The Town of Fountain Hills, Arizona, is located east of the City of Scottsdale on the east slope of the McDowell Mountains. The Town is about 20.3 square miles in area with a population of approximately 25,000. The Town provides general administrative services, public safety, parks and recreation services, code enforcement, street maintenance and improvements and community center activities. The Town does not operate any utilities.

This Request for Proposals (this "RFP") does not commit the Town to reimburse vendors for proposal costs. Price is an important consideration in this process, but not the only consideration. Other factors include experience with preparing general plans (or comprehensive updates of general plans) for other Arizona communities of similar size, identification and understanding of the Town's requirements as embodied in the specifications, and experience and qualifications of key personnel.

The selected firm will be required to execute the Town's standard Professional Services Agreement in a form acceptable to the Town Attorney. A sample of the standard agreement is included with this RFP. If an agreement cannot be reached with the most-qualified firm, the Town may enter into negotiations with the next most qualified firm.

II. Requirements for Updated General Plan

The Town has identified the following requirements for the updated General Plan:

1. Both the final plan document and the planning process must comply with all applicable state statutes and particularly the growing smarter legislation.
2. The General Plan shall include a multi-color land use map in hard copy and electronic formats.
3. The plan will include population projections in 5 –year increments to the year 2030 based on existing sources and using acceptable methods of population projection.

4. The corridor studies, infill studies and specific plans recommended by the existing plan will be reviewed and included again or eliminated if no longer appropriate.
5. All goals and objectives in the existing plan will be reviewed and if they have been accomplished or if circumstances have changed to where they cannot be accomplished, they should be eliminated.
6. The previously adopted General Plan amendment for the former State Trust Land in the northeast corner of the Town will be incorporated into the updated General Plan.
7. The updated General Plan shall include color maps and exhibits as appropriate in hard copy and electronic formats.
8. The plan document shall be consistent with Town brand requirements
9. Update historical information.
10. Update the growth element and future growth areas.
11. Update the information on major infill opportunities. Also, identify any constraints associated with these opportunities.
12. Update the section on plan implementation and amendments to provide clear definitions of major and minor amendments.
13. Provide a discussion on the impact of development on the environment and how those impacts are dealt with through the Town's regulations.
14. Provide an electronic copy of the final draft of the updated plan. Provide 25 copies of the final draft prior to the public hearing before the Planning and Zoning Commission. Provide 50 copies of the adopted plan and one electronic copy.

The following requirements relate to the planning process:

1. The Town is interested in providing an efficient and effective public participation process.
2. Public participation should include a place on the Town's website where information about the updated plan and the planning process can be found. Citizens should also be able to provide comments on the draft plan and planning process via the website.
3. The Town anticipates the need for two community open houses; the first to get input from the public on ideas for the plan and the second to present a draft of the plan. Representatives of the Town and the selected firm will attend each of these.
4. The selected firm will present the proposed amendments to the General Plan at all public hearings before the Planning and Zoning Commission and the Town Council.

5. The selected firm will work with a staff team that will review the consultant's work and provide feedback.
6. Input will be sought from all key community and regional groups and agencies including but not limited to the City of Scottsdale, both adjacent Native American communities, all utilities, all major homeowner associations, the Chamber of Commerce, Maricopa County, Maricopa County Parks Department, the Fountain Hills School District, Fountain Hills Sanitary District, EPCOR Water Company and all departments and commissions internal to the Town.
7. Appropriate use will be made of Town publications such as the Land-Use Analysis and Statistical Report.
8. The Town's Development Services Director will manage this project and will require monthly progress meetings with the selected firm.
9. Additional meetings between the staff oversight/review team, the Development Services Director and the selected firm may be required.
10. Firms are also asked to submit a work program that includes each major step in the general plan update process. The work program should include estimated time frames for each milestone in the planning process and projected end dates for each step.

In researching information to prepare an updated general plan for the Town, the selected firm should refer to the following documents:

1. Town of Fountain Hills Zoning Ordinance
2. Town of Fountain Hills Subdivision Ordinance
3. Adopted Town Budget for FY '18-'19
4. General Plan 2010, and amendments thereto
5. Town of Fountain Hills Strategic Plan, Our Town, Our Choices
6. Town of Fountain Hills Land Use Analysis and Statistical Report

III. Statement of Qualifications

A Statement of Qualifications ("SOQ") shall be submitted by each firm according to the submittal requirements of this RFP. Upon receipt of the SOQ, a selection committee will meet, and using the criteria described in this RFP, may select three (3) most-qualified firms to advance to the next step of the selection process or direct select a firm. The SOQ should include:

1. Outline firm experience in preparing general plans or comprehensive plan updates for communities similar in size and population to Fountain Hills in Arizona. Provide information on

when these plans were prepared, the length of the planning process and the outcome of the process (was the plan adopted?).

2. Identify each member of the team that will be working on this project. Describe the planning education and experience of these individuals. How much experience have they had in working on general plans or comprehensive plan updates of this type? How much time (as a percent of the total team effort) will each of your team members spend on this project?

3. Provide the names and contact information of individuals employed by the municipalities you worked with so that we may contact them with regard to your experience in preparing their General Plans or comprehensive Plan Updates.

EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
THE PLANNING CENTER

[Fee Proposal]

See following page(s).

DS 2018-02 Planning Center Estimated Budget		TPC Team Principals \$140	TPC Senior Planner \$110	TPC Planner \$75	TPC Designer \$120	Bowman PM \$180	Bowman Engineer \$155	Elliott Pollack Economist \$200	Planning Consultant \$75	
Work Scope Tasks	Total Hours									Labor
Task 1: Project Orientation	56									\$6,950
1.1 Finalize Scope of Work/ Schedule	8	8	0	0	0	0	0	0	0	\$1,120
1.2 Kick of Meeting	24	4	0	4	0	4	4	4	4	\$3,300
1.3 Evaluation of Existing General Plan	24	8	6	10	0	0	0	0	0	\$2,530
Task 2: Community Engagement Plan	174									\$19,190
2.1 Public Participation Plan Creation	6	6	0	0	0	0	0	0	0	\$840
2.2 Public Meetings Process	168	40	10	40	40	0	0	8	30	\$18,350
Task 3: Branding and Visioning	28									\$2,900
3.1 Meeting with Team for Visioning	20	4	0	8	4	0	0	0	4	\$1,940
3.2 Visioning Illustrations	8	0	0	0	8	0	0	0	0	\$960
Task 4: Existing Conditions	286									\$32,870
4.1 Historical Overview	52	0	20	32	0	0	0	0	0	\$4,600
4.2 Natural Resources Conditions	32	0	8	16	0	0	8	0	0	\$3,320
4.3 Hydrology, Drainage and Water Quality	18	0	0	0	0	0	18	0	0	\$2,790
4.4 Land Use and Zoning	40	20	10	10	0	0	0	0	0	\$4,650
4.5 Transportation Overview	16	0	0	0	0	0	16	0	0	\$2,480
4.6 Community Facilities and Services	36	0	10	10	0	0	16	0	0	\$4,330
4.7 Economic Overview	22	0	0	0	0	0	0	22	0	\$4,400
4.8 Base Mapping	70	0	30	40	0	0	0	0	0	\$6,300
Task 5: Draft General Plan	235									\$26,000
5.1 Draft General Plan Update	145	45	12	60	8	0	12	8	0	\$16,540
5.2 Address Comments and Revise	64	24	0	40	0	0	0	0	0	\$6,360
5.3 Commission and Council Worksessions	26	10	0	10	0	0	0	4	2	\$3,100
Task 6: Final General Plan	74									\$7,500
6.1 Finalize General Plan	42	10	8	24	0	0	0	0	0	\$4,080
6.2 Commission and Council Hearings	20	8	0	6	0	0	0	4	2	\$2,520
6.3 Provide Town final document	12	0	0	12	0	0	0	0	0	\$900

Hours Total \$95,410

* includes 6 hard copies of the draft and 25 hard copies of the final plan and neighborhood mailout coordination.

**mileage to meetings

TPC Reimbureable expenses*	\$3,860
Support Reimbureable expenses**	\$700
TOTAL	\$99,970

*as of: 7/26/18



TPCGROU-01

CKUJAWA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

07/26/2018

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

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

PRODUCER The Clements Agency, LLC 6245 E. Broadway Suite 310 Tucson, AZ 85711	CONTACT NAME: Faith Ortiz	
	PHONE (A/C, No, Ext): (520) 624-3456	FAX (A/C, No): (520) 622-3777
E-MAIL ADDRESS: fortiz@clementsinsurance.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Hartford Casualty Insurance Co		
INSURED TPC Group, Inc. dba The Planning Center 2 East Congress Suite 600 Tucson, AZ 85701	INSURER B: Hartford Accident and Indemnity Company	
	INSURER C: US Liability Ins Co	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WYVD	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 type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:		59SB AIR5645	09/01/2017	09/01/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		59SB AIR5645	09/01/2017	09/01/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		59SB AIR5645	09/01/2017	09/01/2018	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N <input type="checkbox"/> N/A If yes, describe under DESCRIPTION OF OPERATIONS below		59WECIO0409	01/06/2018	01/06/2019	<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
C	Prof Liab-Clms Made		SP1560760B	09/01/2017	09/01/2018	Per Occurrence 2,000,000
C	Retention-\$5000		SP1560760B	09/01/2017	09/01/2018	Aggregate 2,000,000

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

(Professional Liability - Per Occurrence limit - \$2,000,000 effective 7-26-18 to 9-1-18)

CERTIFICATE HOLDER**CANCELLATION**

Town of Fountain Hills
 Attn: Grady E Miller, Town Manager
 16705 E Avenue of the Fountains
 Fountain Hills, AZ 85268

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

John P. Clements



BUSINESS LIABILITY COVERAGE FORM

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

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section C. - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section G. - Liability And Medical Expenses Definitions.

A. COVERAGES

1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

Insuring Agreement

- a. We will pay those sums that the Insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section D. - Liability And Medical Expenses Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance to the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:

- (a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (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. of Section C. - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- (2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section C. - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

BUSINESS LIABILITY COVERAGE FORM

- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

e. Incidental Medical Malpractice

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

- (a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and

- (b) You are not engaged in the business or occupation of providing such services.

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

2. MEDICAL EXPENSES

Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations; provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;

- (2) The expenses are incurred and reported to us within three years of the date of the accident; and

- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

3. COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS

a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:

- (1) All expenses we incur.
 - (2) Up to \$1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
 - (3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
 - (4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
 - (5) All costs taxed against the insured in the "suit".
 - (6) 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.
 - (7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.
- Any amounts paid under (1) through (7) above will not reduce the limits of insurance.

BUSINESS LIABILITY COVERAGE FORM

(b) "Bodily injury" or "property damage" assumed in a contract or agreement provided that the "employee" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for purposes of this exclusion, an "insured contract" means a contract or agreement under which the insured is obligated to provide services to a party other than an insured and which is not a contract for the sale of goods or services.

(1) Liability to such party for or for the cost of, but party's defense has also been assumed in the same insured contract; and

(2) Such attorney's fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

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

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

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

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

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
- (a) Employment by the insured; or

BUSINESS LIABILITY COVERAGE FORM

So long as the above conditions are met, attorney's fees incurred by us in the defense of that Indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the Indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph 1.b.(b) of Section B, - Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorney's fees and necessary litigation expenses as Supplementary Payments ends when:

- (1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- (2) The conditions set forth above, or the terms of the agreement described in Paragraph (b) above, are no longer met.

B. EXCLUSIONS

1. Applicable To Business Liability Coverage

This insurance does not apply to:

- a. Expected Or Intended Injury
 - (1) "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; or
 - (2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Contractual Liability

- (1) "Bodily injury" or "property damage"; or
- (2) "Personal and 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 because of:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

b. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (2) This insurance applies to such liability assumed by the insured;
- (3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interest of the indemnitee;
- (5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (6) The indemnitee:

- (a) Agrees in writing to:
 - (i) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (iii) Notify any other insurer whose coverage is available to the indemnitee; and
 - (iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(b) Provides us with written authorization to:

- (i) Obtain records and other information related to the "suit"; and
- (ii) Conduct and control the defense of the indemnitee in such "suit".

BUSINESS LIABILITY COVERAGE FORM

BUSINESS LIABILITY COVERAGE FORM

- (f) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (g) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (h) Which are or were at any time transported, handled, stored, treated, disposed of or processed as waste by or for:
- (i) Any insured; or
- (j) Any person or organization for whom you may be legally responsible.

- (k) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
- (1) "Bodily injury" or "property damage" arising out of the escape of fluid, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids; or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or

- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

- (f) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
- (g) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
- (h) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants";

- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

9. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or endorsement to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if that occurrence which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or endorsement to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
- (a) Less than 51 feet long; and
- (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph (4)(2) or (4)(3) of the definition of "mobile equipment"; or
- (6) An insured that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

1. War

- (2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged rally, speed or demolition contest or in any stunt activity;
- "Bodily injury" "property damage" or "personal and advertising injury", however caused, arising directly or indirectly, out of:
- (1) War, including undeclared or civil war, including action by a military force, including action in hindering or deterring against an actual or expected attack by any government, sovereign or other authority using military personnel or other agents; or
- (2) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

1. Professional Services

- "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:
- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;
- (3) Supervisory, inspection, architectural or engineering activities;
- (4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
- (7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices.

BUSINESS LIABILITY COVERAGE FORM

- (8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products;
- (9) Any:
 - (a) Body piercing (not including ear piercing);
 - (b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and
 - (c) Similar services;
- (10) Services in the practice of pharmacy; and
- (11) Computer consulting, design or programming services, including web site design.

Paragraphs (4) and (5) of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph 1.a. in Section A. - Coverages.

k. Damage To Property

"Property damage" is:
 (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incompletely performed on it.

BUSINESS LIABILITY COVERAGE FORM

o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss or use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
 - (2) "Your work"; or
 - (3) "Impaired property";
- if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal And Advertising Injury

"Personal and advertising injury":

(1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;

(2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;

(3) Arising out of a criminal act committed by or at the direction of the insured;

(4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";

(5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";

(6) Arising out of the wrong description of the price of goods, products or services;

(7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or subunitability.

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

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

(8) Title of any literary or artistic work; Arising out of an offense committed by an insured whose business is:

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

However, this exclusion does not apply to Paragraphs a, b, and c, under the definition of "Personal and Advertising Injury" in Section G. - Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

(9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;

(10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or message, or any other similar tactics to mislead another's potential customers;

(11) Arising out of the violation of a person's right of privacy caused by any state or federal act.

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

(12) Arising out of:

- (a) "Advertisement" for others on your web site;
- (b) Placing a link to a web site of others on your web site;
- (c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or
- (d) Computer code, software or programming used to enable:
 - (i) Your web site; or
 - (ii) The presentation or functionality of an "advertisement" or other content on your web site;

BUSINESS LIABILITY COVERAGE FORM

2. Applicable To Medical Expenses Coverage
We will not pay expenses for "bodily injury":

- a. Any insured
- b. Any insured, except "volunteer workers":
- c. To any insured, except "volunteer workers":
- d. Hired Person
- e. To a person hired to work for or on behalf of any insured or a tenant of any insured.
- f. Injury On Normally Occupied Premises
- g. To a person injured on that part of premises you own or rent that the person normally occupies.
- h. Workers' Compensation And Similar Laws
- i. To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- j. Athletics Activities
- k. To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.
- l. Products-Completed Operations Hazard
- m. Included with the "products-completed operations hazard".
- n. Business Liability Exclusions
- o. Excluded Under Business Liability Coverage.

C. WHO IS AN INSURED

- 1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your executive officers and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

BUSINESS LIABILITY COVERAGE FORM

(a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard":

- (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, deload or neutralize or in any way respond to or assess the effects of an "asbestos hazard": or
- (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, deloading or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard":
- 1. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information
- 2. "Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:
 - (1) The Telephone Consumer Protection Act (TCPA), including any amendment or addition to such law;
 - (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
 - (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.
- Damage To Premises Rented To You - Exception For Damage By Fire, Lightning or Explosion
- Exclusions c, through h, and k, through o, do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section D. - Liability And Medical Expenses Limits Of Insurance.

(13) Arising out of a violation of any anti-trust law;

(14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or

(15) Arising out of discrimination or harassment committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

q. Electronic Data
Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

r. Employment-Related Practices
"Bodily injury" or "personal and advertising injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, demotion, harassment, humiliation or discrimination directed at that person or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

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

s. Asbestos

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:

a. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

Each of the following is also an insured:

- a. Employees And Volunteer Workers
- Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees" other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.
- However, none of these "employees" or "volunteer workers" are insureds for:
 - (1) "Bodily injury" or "personal and advertising injury";
 - (2) 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), or 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;
 - (3) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph (1)(a) above;
 - (4) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
 - (5) Arising out of his or her providing or failing to provide professional health care services.
- If you are not in the business of providing professional health care services, Paragraph (d) does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

"Property damage" to property:

- (a) Owned, occupied or used by,

BUSINESS LIABILITY COVERAGE FORM

BUSINESS LIABILITY COVERAGE FORM

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. Lessors Of Land Or Premises

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

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

- (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
(b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

(1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf.

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

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

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

- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, options, reports, surveys, field orders, change orders, designs or drawings and specifications; or
(b) Supervisory, inspection, architectural or engineering activities.

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, options, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section D. - Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. - Liability And Medical Expenses General Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. LIABILITY AND MEDICAL EXPENSES

LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below for the most we will pay regardless of the number of:

- a. Insureds;
b. Claims made or "suits" brought; or
c. Persons or organizations making claims or bringing "suits".

2. Aggregate Limits

The most we will pay for:

a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the "Products-Completed Operations Aggregate Limit" shown in the Declarations.

b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

3. Each Occurrence Limit

Subject to 2.a. or 2.b. above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. Personal And Advertising Injury Limit

Subject to 2.b. above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

5. Damage To Premises Rented To You Limit

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

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

6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

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

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

BUSINESS LIABILITY COVERAGE FORM

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph 3, above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties in The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

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

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
 - (2) Notify us as soon as practicable.
- You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insured's Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity. However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

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

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

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

BUSINESS LIABILITY COVERAGE FORM

This Paragraph f. applies separately to you and any additional insured.

3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Separation Of Insureds

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

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

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

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

7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

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

b. Excess Insurance

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

(1) Your Work

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

(2) Premises Rented To You

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

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. - Coverages.

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

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. - Coverages.

BUSINESS LIABILITY COVERAGE FORM

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

That is other insurance available to you covering liability for damages arising out of the premises or operations, for which you have been added as an additional insured by first insurance, or

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

That is other insurance available to an additional insured. However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

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

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

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

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

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any suit. If any other insurer has a duty to defend the insured against that suit, if no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

BUSINESS LIABILITY COVERAGE FORM

F. OPTIONAL ADDITIONAL INSURED COVERAGES

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph 6 (Additional Insureds When Required By Written Contract, Written Agreement, or Permit) of Section C, Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

1. Additional Insured - Designated Person Or Organization

WHO IS AN INSURED under Section C, is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for bodily injury, property damage or personal and advertising injury caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. in the performance of your ongoing operations; or
b. in connection with your premises owned by or rented to you.

2. Additional Insured - Managers Or Lessors Of Premises

WHO IS AN INSURED under Section C, is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
(2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

3. Additional Insured - Grantor Of Franchise

WHO IS AN INSURED under Section C, is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

4. Additional Insured - Lessor Of Leased Equipment

WHO IS AN INSURED under Section C, is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Lessor Of Leased Equipment, but only with respect to liability for bodily injury, "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

- b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased

WHO IS AN INSURED under Section C, is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

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

6. Additional Insured - State Or Political Subdivision - Permits

WHO IS AN INSURED under Section C, is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

BUSINESS LIABILITY COVERAGE FORM

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the product;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or labeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (1) The exceptions contained in Subparagraphs (d) or (f); or
- (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the product.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

9. Additional Insured - Controlling Interest
WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Controlling Interest, but only with respect to their liability arising out of:

- a. Their financial control of you; or
- b. Premises they own, maintain or control while you lease or occupy these premises.

Insured - State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

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

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(2) "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

7. Additional Insured - Vendors

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "product-completed operations hazard".

b. The insurance afforded to the vendor is subject to the following additional exclusions:

(1) This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer; and then repackaged in the original container;

BUSINESS LIABILITY COVERAGE FORM

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. Additional Insured - Owners, Lessees Or Contractors - Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Owner, Lessee Or Contractor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations for the additional insured(s); or

(2) In connection with "your work" performed for that additional insured and included within the "product-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "product-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

10. Additional Insured - Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section D. - Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. - Liability And Medical Expenses General Conditions.

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper;
- b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or
- c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

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

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

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

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

5. "Bodily injury" means physical:

- a. Injury;
 - b. Sickness; or
 - c. Disease
- sustained by a person and, if arising out of the above, mental anguish or death at any time.
6. "Coverage territory" means:

BUSINESS LIABILITY COVERAGE FORM

BUSINESS LIABILITY COVERAGE FORM

BUSINESS LIABILITY COVERAGE FORM

- (1) Power cranes, shovels, loaders, diggers or drills; or
- (2) Road construction or resurfacing equipment such as graders, scrapers or rollers.
- e. Vehicles not described in a., b., c., or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, bolting, clearing, geophysical exploration, lighting and well servicing equipment or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c., or d. above maintained primarily for purposes other than the transportation of persons or cargo.
 - (1) However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
 - (a) Equipment of at least 1,000 pounds gross vehicle weight, designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
 - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (3) Air compressors, pumps and generators, including spraying, welding, bolting, clearing, geophysical exploration, lighting and well servicing equipment.

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, specifications, reports, surveys, field orders, change orders, designs or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.
- 13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- 14. "Loading or unloading" means the handling of property:
 - a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
 - b. While it is in or on an aircraft, watercraft or "auto"; or
 - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
 but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
- 15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
 - a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally on 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, on which are permanently mounted:
- 16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
- 17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
 - a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;

- b. You have failed to fulfill the terms of a contract or agreement
 - a. The repair, replacement, adjustment, or removal of "your product" or "your work", or
 - b. Your fulfilling the terms of the contract or agreement.
12. "Insured contract" means:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section D. -- Liability and Medical Expenses Limits of insurance.
 - b. A sidetrack agreement;
 - c. Any statement or license agreement, including an assessment or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement; or
 - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- Paragraph f. includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.
- However, Paragraph f. does not include that part of any contract or agreement:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above;
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in a. above;
 - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the internet or similar electronic means of communication
- provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.
7. "Electronic data" means information, facts or programs:
- a. Stored on or on;
 - b. Created or used on; or
 - c. Transmitted to or from computer, software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, specifications, reports, surveys, field orders, change orders, designs or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.
- 13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- 14. "Loading or unloading" means the handling of property:
 - a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
 - b. While it is in or on an aircraft, watercraft or "auto"; or
 - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
 but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
- 15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
 - a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally on 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, on which are permanently mounted:
- 16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
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 - a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;

- b. You have failed to fulfill the terms of a contract or agreement
 - a. The repair, replacement, adjustment, or removal of "your product" or "your work", or
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- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section D. -- Liability and Medical Expenses Limits of insurance.
 - b. A sidetrack agreement;
 - c. Any statement or license agreement, including an assessment or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement; or
 - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- Paragraph f. includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.
- However, Paragraph f. does not include that part of any contract or agreement:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above;
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in a. above;
 - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the internet or similar electronic means of communication
- provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.
7. "Electronic data" means information, facts or programs:
- a. Stored on or on;
 - b. Created or used on; or
 - c. Transmitted to or from computer, software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

BUSINESS LIABILITY COVERAGE FORM

- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral, written or electronic publication of material that violates a person's right of privacy;
- f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";
- g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement", or
- h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

18. "Pollutant" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

19. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed;
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site;
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

BUSINESS LIABILITY COVERAGE FORM

- 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; or
 - (2) The existence of tools, uninstalled equipment or abandoned or unused materials.

20. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.

21. "Suit" means a civil proceeding in which damages are claimed and to which the insured must submit or does submit with our consent; or

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

22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

23. "Volunteer worker" means a person who:

- a. Is not your "employee";

BUSINESS LIABILITY COVERAGE FORM

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

24. "Your product":

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

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

BUSINESS LIABILITY COVERAGE FORM

- (2) The providing of or failure to provide warnings or instructions.
- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

- a. Means:
 - (1) Work or operations performed by you or on your behalf; and
 - (2) Materials, parts or equipment furnished in connection with such work or operations.
- b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
 - (2) The providing of or failure to provide warnings or instructions.

**QUICK REFERENCE
BUSINESS LIABILITY COVERAGE FORM
READ YOUR POLICY CAREFULLY**

BUSINESS LIABILITY COVERAGE FORM	Beginning on Page
A. COVERAGES	1
Business Liability	1
Medical Expenses	2
Coverage Extension - Supplementary Payments	2
B. EXCLUSIONS	3
C. WHO IS AN INSURED	10
D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE	14
E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS	15
1. Bankruptcy	15
2. Duties In The Event Of Occurrence, Offense, Claim Or Suit	15
3. Financial Responsibility Laws	16
4. Legal Action Against Us	16
5. Separation Of Insureds	16
6. Representations	16
7. Other Insurance	16
8. Transfer Of Rights Of Recovery Against Others To Us	17
F. OPTIONAL ADDITIONAL INSURED COVERAGES	18
Additional Insureds	18
G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS	20



BUSINESS LIABILITY COVERAGE FORM

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

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section C. - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section G. - Liability And Medical Expenses Definitions.

A. COVERAGES

1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section D. - Liability And Medical Expenses Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

- b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:

- (a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
 - (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. of Section C. - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- (2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.
- c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section C. - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

BUSINESS LIABILITY COVERAGE FORM

- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".
- e. **Incidental Medical Malpractice**
- (1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:
 - (a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and
 - (b) You are not engaged in the business or occupation of providing such services.
 - (2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

2. MEDICAL EXPENSES

Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:
- (1) The accident takes place in the "coverage territory" and during the policy period;
 - (2) The expenses are incurred and reported to us within three years of the date of the accident; and
 - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

3. COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS

- a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:
- (1) All expenses we incur.
 - (2) Up to \$1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
 - (3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
 - (4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
 - (5) All costs taxed against the insured in the "suit".
 - (6) 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.
 - (7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.
- Any amounts paid under (1) through (7) above will not reduce the limits of insurance.

b. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (2) This insurance applies to such liability assumed by the insured;
- (3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interest of the indemnitee;
- (5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (6) The indemnitee:
 - (a) Agrees in writing to:
 - (i) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (iii) Notify any other insurer whose coverage is available to the indemnitee; and
 - (iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (b) Provides us with written authorization to:
 - (i) Obtain records and other information related to the "suit"; and
 - (ii) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph 1.b.(b) of Section B. – Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- (1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- (2) The conditions set forth above, or the terms of the agreement described in Paragraph (6) above, are no longer met.

B. EXCLUSIONS

1. Applicable To Business Liability Coverage

This insurance does not apply to:

a. Expected Or Intended Injury

- (1) "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; or
- (2) "Personal and advertising injury" arising out of an offense committed by; at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Contractual Liability

- (1) "Bodily injury" or "property damage"; or
- (2) "Personal and 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 because of:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

BUSINESS LIABILITY COVERAGE FORM

(b) "Bodily injury" or "property damage" assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purpose of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage" provided:

- (i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and
- (ii) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

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

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

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

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

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business, or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of (1) above.

This exclusion applies:

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

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
 - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
 - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i) Any insured; or
 - (ii) Any person or organization for whom you may be legally responsible;
 - (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
 - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".
- However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

BUSINESS LIABILITY COVERAGE FORM

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 51 feet long; and
 - (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or
- (6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

- (2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;
- (3) Supervisory, inspection, architectural or engineering activities;
- (4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
- (7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

BUSINESS LIABILITY COVERAGE FORM

- (8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products;
- (9) Any:
 - (a) Body piercing (not including ear piercing);
 - (b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and
 - (c) Similar services;
- (10) Services in the practice of pharmacy; and
- (11) Computer consulting, design or programming services, including web site design.

Paragraphs (4) and (5) of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph 1.e. in Section A. - Coverages.

k. Damage To Property

"Property damage" to:

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

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Section D. - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to the use of elevators.

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

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

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

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

BUSINESS LIABILITY COVERAGE FORM

o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal And Advertising Injury

"Personal and advertising injury":

- (1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of a criminal act committed by or at the direction of the insured;
- (4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";
- (5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (6) Arising out of the wrong description of the price of goods, products or services;
- (7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

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

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

(c) Title of any literary or artistic work;

- (8) Arising out of an offense committed by an insured whose business is:
 - (a) Advertising, broadcasting, publishing or telecasting;
 - (b) Designing or determining content of web sites for others; or
 - (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs a., b. and c. under the definition of "personal and advertising injury" in Section G. - Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;
- (10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers;
- (11) Arising out of the violation of a person's right of privacy created by any state or federal act.

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

- (12) Arising out of:
 - (a) An "advertisement" for others on your web site;
 - (b) Placing a link to a web site of others on your web site;
 - (c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or
 - (d) Computer code, software or programming used to enable:
 - (i) Your web site; or
 - (ii) The presentation or functionality of an "advertisement" or other content on your web site;

- (13) Arising out of a violation of any anti-trust law;
- (14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or
- (15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

q. Electronic Data

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

r. Employment-Related Practices

"Bodily injury" or "personal and advertising injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

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

s. Asbestos

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:

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

t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information

"Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

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

Exclusions c. through h. and k. through o. do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section D. - Liability And Medical Expenses Limits Of Insurance.

BUSINESS LIABILITY COVERAGE FORM

2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

f. Products-Completed Operations Hazard

Included with the "products-completed operations hazard".

g. Business Liability Exclusions

Excluded under Business Liability Coverage.

C. WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

- (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph (1)(a) above;
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.
- If you are not in the business of providing professional health care services, Paragraph (d) does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.
- (2) "Property damage" to property:
 - (a) Owned, occupied or used by,

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Real Estate Manager

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

c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

e. Unnamed Subsidiary

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

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

3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or
- (2) "Personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

4. Operator Of Mobile Equipment

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

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

5. Operator of Nonowned Watercraft

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

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

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

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

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written

BUSINESS LIABILITY COVERAGE FORM

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

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

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. – Optional Additional Insured Coverages.

a. Vendors

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

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

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in Subparagraphs (d) or (f); or

- (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

- (2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.
- c. Lessors Of Land Or Premises**
- (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.
 - (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
 - (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
 - (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.
- d. Architects, Engineers Or Surveyors**
- (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
 - (a) In connection with your premises; or
 - (b) In the performance of your ongoing operations performed by you or on your behalf.
 - (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

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

 - (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
 - (b) Supervisory, inspection, architectural or engineering activities.
- e. Permits Issued By State Or Political Subdivisions**
- (1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
 - (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
 - (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
 - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".
- f. Any Other Party**
- (1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
 - (a) In the performance of your ongoing operations;
 - (b) In connection with your premises owned by or rented to you; or
 - (c) In connection with "your work" and included within the "products-completed operations hazard", but only if
 - (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and
 - (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
 - (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

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

BUSINESS LIABILITY COVERAGE FORM

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. Aggregate Limits

The most we will pay for:

- a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
- b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

3. Each Occurrence Limit

Subject to 2.a. or 2.b. above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. Personal And Advertising Injury Limit

Subject to 2.b. above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

5. Damage To Premises Rented To You Limit

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

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

6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

- a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or
- b. The Limits of Insurance shown in the Declarations.

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

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph 3. above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

**E. LIABILITY AND MEDICAL EXPENSES
GENERAL CONDITIONS**

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

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

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

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

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insured's Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insured's Other Insurance

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

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

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

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

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

BUSINESS LIABILITY COVERAGE FORM

This Paragraph f. applies separately to you and any additional insured.

3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Separation Of Insureds

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

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

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

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

7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

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

b. Excess Insurance

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

(1) Your Work

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

(2) Premises Rented To You

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

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. - Coverages.

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

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. - Coverages.

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

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

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

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

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

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

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

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

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

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

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

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

c. Method Of Sharing

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

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

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

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

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

F. OPTIONAL ADDITIONAL INSURED COVERAGES

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph 6. (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section C., Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

1. Additional Insured - Designated Person Or Organization

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations; or
- b. In connection with your premises owned by or rented to you.

2. Additional Insured - Managers Or Lessors Of Premises

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

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

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

3. Additional Insured - Grantor Of Franchise

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

4. Additional Insured - Lessor Of Leased Equipment

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

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

This insurance does not apply to:

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

6. Additional Insured - State Or Political Subdivision - Permits

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured – State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

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

7. Additional Insured – Vendors

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- b. The insurance afforded to the vendor is subject to the following additional exclusions:

- (1) This insurance does not apply to:
 - (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - (b) Any express warranty unauthorized by you;
 - (c) Any physical or chemical change in the product made intentionally by the vendor;
 - (d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in Subparagraphs (d) or (f); or
- (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

- (2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

8. Additional Insured – Controlling Interest

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

- a. Their financial control of you; or
- b. Premises they own, maintain or control while you lease or occupy these premises.

BUSINESS LIABILITY COVERAGE FORM

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations for the additional insured(s); or

(2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(2) Supervisory, inspection, architectural or engineering activities.

10. Additional Insured – Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

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

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

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

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

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

5. "Bodily injury" means physical:

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

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

6. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above;
- c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in a. above;
 - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.

- 7. "Electronic data" means information, facts or programs:
 - a. Stored as or on;
 - b. Created or used on; or
 - c. Transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
- 8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- 10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
- 11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

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

12. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section D. – Liability and Medical Expenses Limits of Insurance.
- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement; or
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

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

BUSINESS LIABILITY COVERAGE FORM

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.
13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
14. "Loading or unloading" means the handling of property:
 - a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
 - b. While it is in or on an aircraft, watercraft or "auto"; or
 - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
 - a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
 - b. Vehicles maintained for use solely on or next to premises you own or rent;
 - c. Vehicles that travel on crawler treads;
 - d. Vehicles, whether self-propelled or not, on which are permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c., or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c., or d. above maintained primarily for purposes other than the transportation of persons or cargo.
- However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
 - (1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
 - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
 - a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;

BUSINESS LIABILITY COVERAGE FORM

- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies, committed by or on behalf of its owner, landlord or lessor;
 - d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - e. Oral, written or electronic publication of material that violates a person's right of privacy;
 - f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";
 - g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or
 - h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.
18. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
19. "Products-completed operations hazard";
- a. includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
- Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
- The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.
- 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; or
 - (2) The existence of tools, uninstalled equipment or abandoned or unused materials.
20. "Property damage" means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
 - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.
- As used in this definition, "electronic data" is not tangible property.
21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
23. "Volunteer worker" means a person who:
- a. Is not your "employee";

BUSINESS LIABILITY COVERAGE FORM

- b. Donates his or her work;
 - c. Acts at the direction of and within the scope of duties determined by you; and
 - d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
24. "Your product":
- a. Means:
 - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
 - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
 - (2) The providing of or failure to provide warnings or instructions.
25. "Your work":
- a. Means:
 - (1) Work or operations performed by you or on your behalf; and
 - (2) Materials, parts or equipment furnished in connection with such work or operations.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
 - (2) The providing of or failure to provide warnings or instructions.

Request for Taxpayer Identification Number and Certification

Give Form to the
 requester. Do not
 send to the IRS.

Print or type See Specific instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. TPC Group Inc.	
	2 Business name/disregarded entity name, if different from above The Planning Center	
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____ <input type="checkbox"/> C Corporation <input checked="" type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate	
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) <u>5</u> Exemption from FATCA reporting code (if any) <u>N/A</u> (Applies to accounts maintained outside the U.S.)	
	5 Address (number, street, and apt. or suite no.) 2 E Congress Ste 600	Requester's name and address (optional)
	6 City, state, and ZIP code Tucson, Arizona 85701	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number	
OR	
Employer Identification number	
8	6
-	1
0	0
0	0
0	7
7	6

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification Instructions. You must cross out Item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, Item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶	Date ▶ <u>9-19-2016</u>
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.
 Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.