

CITY OF WEST ALLIS
AGREEMENT FOR PROFESSIONAL SERVICES

This AGREEMENT is entered into by and between the CITY OF WEST ALLIS, Wisconsin (the "City"), a municipal corporation) and AYRES ASSOCIATES INC. (the "Consultant").

WHEREAS, the City has solicited proposals from qualified persons to furnish Professional Services for a Comprehensive Outdoor Recreation Plan Update (the "Project"); and,

WHEREAS, Consultant has submitted a proposal to provide such services; and,

WHEREAS, the City is authorized to enter into this Agreement with Consultant for such services and has authorized the expenditure of funds to pay the liability that will accrue to the City under this Agreement.

NOW, THEREFORE, in consideration of these premises the parties hereby mutually agree as set forth in the following pages, exhibits and schedules which are annexed hereto and made a part hereof.

IN WITNESS WHEREOF, the City and the Consultant have executed this Agreement together with the attachments, which are made a part hereof.

CITY OF WEST ALLIS:

CONSULTANT:

By: *John F. Skelton*

Title: Director of Development

Date: 5-21-15

By: *James E. Durr*

Title: Regional Mgr

Date: 5-1-15

ATTACHMENTS:
GENERAL CONDITIONS OF AGREEMENT
SCOPE OF SERVICES
INSURANCE REQUIREMENTS
WORK ORDER

Scott/City-Consultants-Agrmnt Prof Serv-Form

Approved as to form this 26 day
of May, 2015.

Scott Spat
City Attorney

l:\c\Ayres Assoc., Inc.\Outdoor Recreation Plan Update\p s

*Please leave
this note in file. -
Scott & Jim have
edited language
under Identification
section.*

5/15

**CITY OF WEST ALLIS
PROCEED ORDER**

TO: **AYRES ASSOCIATES, INC.**

DATE: May 6, 2015

PROJECT: Comprehensive Outdoor Recreation Plan Update

In accordance with Resolution No. R-2015-0088 dated April 7, 2015 and the Agreement for Professional Services dated May 6, 2015 (the "Agreement"), you are directed to proceed with work on the Project as outlined below:

Work: See attached Scope of Services dated April 20, 2015.

Estimate: \$ 24,790.00

Schedule: Work to commence immediately. To be completed as part of the Basic Services under the Agreement.

This Proceed Order, including any attachments, is incorporated into the Agreement. All work defined in this Proceed Order and payment therefor shall be performed in accordance with the terms and conditions of the Agreement, unless otherwise modified herein. Any modification(s) of this Proceed Order is subject to approval and acceptance pursuant to the Agreement.

Issued:

By:

John F. Stival

Title: Executive Director

Community Development Authority

Date:

5-21-15

Received and Approved:

By:

James E. Owen

Title:

Regional Mgr

Date:

6-1-15

ATTACHMENTS:

Scope of Services

COMPTROLLER'S CERTIFICATE

Countersigned this 28 day of MAY, 2015,
and I certify that the necessary funds have been
provided to pay the liability that may be incurred
by the City of West Allis under this Contract.

Mark D. Wyss

Director of Finance/Comptroller/Treasurer

CITY OF WEST ALLIS
GENERAL CONDITIONS OF AGREEMENT FOR
PROFESSIONAL SERVICES

CONSULTANT: **AYRES ASSOCIATES, INC.**

PROJECT: **COMPREHENSIVE OUTDOOR RECREATION PLAN UPDATE**

1.01 BASIC SERVICES

A. Basic Services of CONSULTANT to be provided under this AGREEMENT are listed in the Scope of Services, attached hereto and made a part of this AGREEMENT by reference.

B. Payment for Basic Services shall be made in accordance with Section 3 of this Agreement.

2.01 SERVICES REQUIRING AUTHORIZATION IN ADVANCE

A. Those services listed in the Scope of Services but not identified in Section I of this AGREEMENT may be requested by the CITY to complete the work, are considered additional services. The CITY may request CONSULTANT at a future date to perform any or all of these services by a written authorization to proceed with the Additional Service(s). The written authorization to proceed shall become an Amendment to the Agreement.

B. Payment for the Additional Service(s) shall be in accordance with Section 3 of this AGREEMENT.

3.01 BASIC SERVICES

A. CITY shall pay CONSULTANT for Basic Services rendered under Section I on the basis of CONSULTANT'S Hourly Rate, plus Reimbursable Expenses and Services of Professional Associates and other Consultants as defined in this Section 3.

B. CONSULTANT estimates that the total cost required to perform Basic Services as enumerated in Section I will not exceed Twenty Four Thousand Seven Hundred Ninety Dollars (\$24,790.00).

Given the assumptions which must be made, the CITY recognizes that the CONSULTANT cannot guarantee the complete accuracy of its estimate of total cost, and, therefore waives any claim against CONSULTANT in this regard, except to the extent that any cost overrun can be attributable to fraudulent conduct, bad faith or inexcusable ignorance or incompetence.

3.02 ADDITIONAL SERVICES

CITY shall pay CONSULTANT for Additional Services rendered under Section 2 as follows:

I. For Additional Services of CONSULTANT'S principals and employees engaged directly on the Project and rendered pursuant to Section 2, on the basis of CONSULTANT'S Hourly Rate.

2. For services and Reimbursable Expenses of independent Professional Associates and Consultants employed by CONSULTANT to render Additional services pursuant to Section 2, the amount billed to CONSULTANT therefore.

3.03 REIMBURSABLE EXPENSES

A. As used in this AGREEMENT Reimbursable Expenses mean the actual expense incurred by CONSULTANT or its independent Professional Associates or Consultants, directly or indirectly in connection with the Project, such as expenses for: toll telephone calls and express mailings, reproduction of reports, drawings, specifications, bidding documents, laboratory tests and similar Project-related items in addition to those required under Section I; and, if authorized in advance by the CITY, overtime work requiring higher than regular rates.

B. The Reimbursable Expenses for Basic Services are as set forth in the CONSULTANT'S Hourly Rates attached hereto and made a part of this AGREEMENT.

3.04 HOURLY RATES.

As used in this AGREEMENT hourly rates used as a basis for payment mean salaries and wages (basic and incentive) paid to all CONSULTANT'S personnel engaged directly on the Project, including but not limited to other technical and business personnel as set forth in the CONSULTANT'S Hourly Rates.

3.05 TIME OF PAYMENT

A. CONSULTANT shall submit monthly statements on or before the twentieth of the month for Basic and Additional Services rendered and for Reimbursable Expenses incurred. The CITY shall make prompt payment on or before the twentieth of the month following the date of the CONSULTANT monthly statement.

4.01 COMMENCEMENT OF WORK

A. CONSULTANT shall commence the work to be performed under this AGREEMENT upon receipt of a written Work Order or verbal authorization to proceed from the CITY. Each Work Order or verbal authorization shall define by task(s) the scope of services to be performed. Verbal authorizations shall be followed up with written Work Orders.

B. Additional services shall be commenced at within the time agreed to between the CONSULTANT and the CITY at the time such services are authorized.

C. The CITY shall not be liable to CONSULTANT and/or any of its independent Professional Associates and Consultants and/or subcontractors for claims or damages or monetary

claims of any nature caused by or arising out of delays from any cause whatsoever, including but not limited to any time which may be specified for the notice to proceed under this AGREEMENT. The sole remedy against the CITY for delays shall be the allowance to claimant of additional time for completion of work, the amount thereof to be reasonable as determined by the CITY.

4.02 COMPLETION OF WORK

A. CONSULTANT shall complete the work to be performed under this AGREEMENT within the time specified in the Scope of Services, or if none is specified, then within a reasonable time for the type of work involved.

B. Additional services shall be completed within the time agreed to between the CONSULTANT and the CITY at the time such services are authorized.

5.01 APPLICABLELAW

This AGREEMENT shall be governed by the laws of the State of Wisconsin and venue for any action concerning this AGREEMENT shall be in Milwaukee County, Wisconsin. The CONSULTANT shall at all times comply with all federal, state and local laws, ordinances and regulations in effect during the period of this AGREEMENT.

6.01 APPROVALS OR INSPECTIONS

None of the approvals or inspections performed by the CITY shall be construed or implied to relieve the CONSULTANT from any duty or responsibility it has for its professional performance, unless the CITY formally assumes such responsibility through a letter from the CITY expressly stating that the responsibility has been assumed.

7.01 DISPUTE RESOLUTION

In the event a dispute arises under this AGREEMENT, which is not resolvable through informal means, the parties agree to submit the dispute to the following resolution mechanism prior to pursuing other available legal remedies. Upon receipt of a written request by either party to utilize this provision each party shall have five working days to notify the other as to the name and address of the person designated to present the dispute for that party. Upon designation of the dispute resolution representatives, those persons shall have ten working days to appoint a mutually acceptable third person to hear the dispute, and to agree on a time and location to hear the matter in dispute. The representatives shall jointly determine the procedure to be used for gathering information and hearing the dispute. Binding mediation or arbitration shall not be chosen as a dispute resolution method.

8.01 ASSIGNMENT

Neither this AGREEMENT nor any right or duty, in whole or in part, of the CONSULTANT under this AGREEMENT may be assigned, delegated or subcontracted without the written consent of the CITY.

Nothing under this AGREEMENT shall be construed to give any rights or benefits in this

AGREEMENT to anyone other than the CITY and the CONSULTANT, and all duties and responsibilities undertaken pursuant to this AGREEMENT will be for the sole and exclusive benefit of the CITY and the CONSULTANT and not for the benefit of any of any other party.

9.01 CANCELLATION; TERMINATION

A. The CITY reserves the right to cancel this AGREEMENT in whole or in part, without penalty, due to non-appropriation of funds or for failure of the CONSULTANT to comply with terms, conditions, or specifications of this AGREEMENT.

B. The CITY may terminate this AGREEMENT for any reason at any time upon not less than 10 days' written notice to the CONSULTANT.

C. In the event of termination, the CITY shall pay the CONSULTANT for that portion of the work satisfactorily performed prior to the date of termination.

D. If this AGREEMENT is cancelled or terminated by the CITY for reasons other than the failure of the CONSULTANT to comply with terms, conditions or specifications of *this* AGREEMENT, the CONSULTANT shall also be entitled to reasonable cancellation or termination costs relating to costs incurred by the CONSULTANT for commitments, which had become firm prior to the cancellation or termination.

E. Upon cancellation or termination under Paragraph A. or B., above, the CONSULTANT shall promptly discontinue all affected work (unless the notice of termination directs otherwise), and deliver or otherwise make available to the CITY all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the CONSULTANT in performing this AGREEMENT, whether completed or in progress.

F. If any undisputed invoice shall not be paid within the payment terms of this AGREEMENT, CONSULTANT shall have the right, after giving seven (7) days written notice, to suspend all Services on the project until all accounts have been paid. If any overdue invoice shall not be paid within forty-five (45) calendar days after the date of the invoice, CONSULTANT shall have the right to terminate this AGREEMENT.

10.01 DISCLOSURE

If a city official (as defined under Section 3.02(1) of the Revised Municipal Code of the City of West Allis), a member of official's immediate family, or any organization in which a city official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this AGREEMENT, and if this AGREEMENT involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this AGREEMENT is voidable by the City unless appropriate disclosure is made according to Section 3.5 of the Revised Municipal Code, before signing the AGREEMENT. Disclosures shall be made to the Ethics Board of the City of West Allis, 7525 West Greenfield Avenue, West Allis, Wisconsin 53214 (Telephone 414-302-8200).

11.01 ENTIRE AGREEMENT; AMENDMENTS

This AGREEMENT, together with the specifications in the proposal and referenced parts and attachments, shall constitute the entire agreement between the parties and previous communications or agreements pertaining to the subject matter of this AGREEMENT are hereby superseded. Any contractual revisions including cost adjustments and time extensions may be made only by a written amendment to this AGREEMENT, signed by both parties prior to the ending date of this AGREEMENT.

12.01 FORCE MAJEURE

No party shall be responsible to the other party for any resulting losses and it shall not be a default of this AGREEMENT if the fulfillment of any of the terms of this AGREEMENT is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, acts of God, unusual adverse weather conditions, or by any other cause not within the control of the party whose performance was interfered with and which by the exercise of reasonable diligence such party is unable to prevent, whether of the class of enumerate causes or not, and the time for performance shall be extended by the period of delay occasioned by any such cause. Upon the occurrence of a force majeure, written notice to the other party shall be given as herein provided. If the period of non-performance exceeds thirty (30) days from the receipt of the notice, the party whose ability to perform has not been so affected may, by written notice, terminate this AGREEMENT.

13.01 INDEMNIFICATION; LIABILITY

A. To the extent and percentage of Consultant's negligence, , Consultant hereby indemnifies and shall defend and hold harmless the City of West Allis, its elected and appointed officials, officers, employees or authorized representatives or volunteers and each of them from and against any and all suits, actions, legal or administrative proceedings, claims demands, damages, liabilities, interest, attorneys' fees, costs, and expenses arising before, during, or after completion of the work hereunder and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of Consultant or of anyone acting under its direction or control or on its behalf in connection with or incident to the performance of this Agreement. Consultant's aforesaid indemnity and hold harmless agreement shall not be applicable to any liability caused by the sole fault, sole negligence, or willful misconduct of the City of West Allis, or its elected and appointed officials, officers, employees or authorized representatives or volunteers. This indemnity provision shall survive the termination or expiration of this Agreement.

In any and all claims against the City of West Allis, its elected and appointed officials, officers, employees or authorized representatives or volunteers by an employee of Consultant, any subcontractor, or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Consultant or any subcontractor under worker's compensation, disability benefit, or other employee benefit laws.

No provision of this indemnification clause shall give rise to any duties not otherwise provided for by this Agreement or by operation of law. No provision of this indemnity clause shall be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to the City of West Allis, its elected and appointed officials, officers, employees or authorized representatives or volunteers under this or any other contract. This clause is to be read in conjunction with all other indemnity provisions contained in this Agreement. Any conflict or ambiguity arising between any indemnity provisions in this Agreement shall be construed in favor of indemnified parties except when such interpretation would violate the laws of the state in which the job site is located.

To the extent and percentage of Consultant's negligence Contractor shall reimburse the City of West Allis, its elected and appointed officials, officers, employees or authorized representatives or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any received by the City of West Allis, its elected and appointed officials, officers, employees or authorized representatives or volunteers.

B. CITY agrees to indemnify, defend and hold harmless CONSULTANT and its subcontractors, consultants, agents, directors, and employees from and against all claims, suits, damages, and losses, including, but not limited to, those claims, suits, damages, or losses caused or arising out of, relating to, or based upon: 1) the acts, omissions, or other conduct of CITY; and [2] the actual or threatened dispersal, discharge, escape, release, or saturation of smoke, vapors, soot, fumes acids, alkalis, toxic chemicals, liquids, gases, or any other materials, irritants, contaminants, or pollutants in or into the atmosphere or on, onto, upon, in or into the surface or subsurface of soil, water or water course, objects, or any tangible or intangible matter, whether abated or not; except to the extent that such damage or loss is caused by the negligent acts or willful misconduct of CONSULTANT or its agents, officers, directors, or employees.] [For environmental services only.]

C. Nothing contained within this AGREEMENT is intended to be a waiver or estoppel of the City or its insurer to rely upon the limitations, defenses, and immunities contained within Wisconsin Statutes Sections 893.80 and 345.05. To the extent that indemnification is available and enforceable, the City or its insurer shall not be liable in indemnity, contribution or otherwise for an amount greater than the limits of liability for municipal claims established by Wisconsin law.

14.01 INDEPENDENT CONTRACTOR

The CITY agrees that the CONSULTANT shall have sole control of the method, hours worked, and time and manner of any performance under this AGREEMENT other than as specifically provided herein. The CITY reserves the right only to inspect the job site or premises for the purpose of insuring that the performance is progressing or has been completed in compliance with the AGREEMENT. The CITY takes no responsibility for supervision or direction of the performance of the AGREEMENT to be performed by the CONSULTANT or the CONSULTANT'S employees or agents. The CITY further agrees that it will exercise no control over the selection and dismissal of the CONSULTANT'S employees or agents.

15.01 REPORT AND DOCUMENTATION REQUIREMENTS

A. The CONSULTANT'S invoices will be reduced by the sums set forth below for each week that the CONSULTANT fails to submit a report or document required under this AGREEMENT'S time schedule unless the CITY determines that such delay is attributable to a force majeure as defined in Section 8., above. These reductions shall accrue in the amount of 5% of the Work Order for the first week and 10% of the Work Order for each week thereafter, for each report or document, which is overdue.

B. Assessment of reductions under this Section does not preclude the CITY from pursuing any other remedies or sanctions because of the CONSULTANT'S failure to comply with any of the terms of this AGREEMENT, including a suit to enforce the terms of this AGREEMENT.

C. With respect to any individual failure to submit a report or document required under this AGREEMENT'S time schedule, the CITY may at its sole discretion, in whole or in part, waive its right to penalties otherwise due under this Section.

16.01 NO WAIVER OF CONDITIONS

The failure of either party to insist on strict performance of this AGREEMENT does not constitute a waiver of any of the provisions of this AGREEMENT or a waiver of any default of the other party.

17.01 OWNERSHIP OF DOCUMENTS

A. Upon completion of the services provided for in this AGREEMENT, or upon payment for services as provided for in Section 5., all reports, specifications, charts, sketches, drawings and other documents, whether finished or not, shall become the property of the CITY.

B. CONSULTANT shall retain one copy of all documents for its file. Any documents generated by CONSULTANT used by the CITY beyond the intended purpose shall be at the sole risk of the CITY, unless otherwise agreed upon by CONSULTANT in writing. To the fullest extent permitted by law, CITY shall indemnify, defend and hold harmless CONSULTANT, its subcontractors, consultants, officers, directors, employees and agents, for any loss or damages arising out of the unauthorized use of such documents by the CITY.

18.01 OWNERSHIP OF WASTES [Environmental Contract Only)

The CITY acknowledges that the CONSULTANT is not, by virtue of this AGREEMENT, the owner or generator of any waste materials generated as a result of the services performed by the CONSULTANT under this AGREEMENT.

19.01. PERIOD OF AGREEMENT

This AGREEMENT shall commence upon its signing by both parties and shall follow the schedule developed herein, during which period all performance as described in this AGREEMENT

shall be fully completed to the satisfaction of the CITY.

20.01 RELEASE OF INFORMATION

The CONSULTANT may not issue press releases or provide information to any third party regarding the Project without the prior written approval of the CITY, except as required by Federal or State regulations, or court order.

21.01 SAFETY

The CONSULTANT shall initiate, maintain and provide supervision of safety precautions and programs for CONSULTANT'S own employees, and shall require its subcontractors or sub consultants to comply with state and local safety laws and regulations in connection with its services. However, the CONSULTANT is not responsible for the elimination or abatement of safety hazards created or otherwise resulting from work at the project site carried on by other persons or firms directly employed by the CITY as separate consultants or contractors. The CITY agrees to require any such separate consultants or contractors to comply with federal, state and local safety laws and regulations and to comply with all reasonable requests and directions of the CONSULTANT for the elimination or abatement of any safety hazards at the project site.

22.01 SITE ACCESS; DATA

A. Unless the Scope of Work provides otherwise, the CITY shall obtain or provide reasonable access for the CONSULTANT to the project site when necessary and at any reasonable time requested.

B. The CITY shall attempt to provide the CONSULTANT with all relevant data and information in its possession regarding the project site. However, in providing such data and information, the CITY or the CONSULTANT assumes no responsibility for its accuracy, reliability or completeness.

23.01 STANDARD OF PERFORMANCE

The CONSULTANT'S services shall be performed with the usual thoroughness, skill and competence of the consulting profession, in accordance with the standard for professional services prevailing at the time those services are rendered.

24.01 SURVIVAL

These General Terms and Conditions shall survive the completion of the services under this AGREEMENT and the termination of this AGREEMENT for any cause.

25.01 SUCCESSORS AND ASSIGNS

The CITY and the CONSULTANT each bind themselves, their partners, successors, assigns and legal representatives to the other party to this AGREEMENT and to the partners, successors, assigns and legal representatives of the other party with respect to all covenants of this AGREEMENT.

26.01 TITLES

The headings or titles of Sections of this AGREEMENT are used for convenience and ease of reference and are not intended to limit the scope or intent of the Sections.

27.01 ACCESS TO RECORDS

A. The CONSULTANT and subcontractors to the CONSULTANT if any, agree to maintain for inspection by the CITY all books, documents, papers, accounting records and other evidence pertaining to all costs incurred under this AGREEMENT and to make such materials available at their respective offices at all reasonable times during the life of the AGREEMENT and for three (3) years from the date of final payment under the AGREEMENT, and to furnish copies thereof if requested.

B. If more than a nominal number of copies are requested, the additional copies shall be furnished at the expense of the CITY.

28.01 ERRORS AND OMISSIONS

The CONSULTANT shall be responsible for the accuracy of the work performed by the CONSULTANT under the AGREEMENT, and shall promptly make necessary revisions or connections resulting from its negligent acts, errors or omissions without additional compensation.

29.01 CONFLICT OF INTEREST

A. The CONSULTANT warrants it has no public or private interest, and shall not knowingly acquire directly or indirectly any such interest, which would conflict in any manner with the performance of the work under the AGREEMENT.

B. The CONSULTANT shall not employ any person employed by the CITY for any work included under the provisions of the AGREEMENT.

Rev 7/26/13 kp
Scott/City-Consultant-Gen Conditions of Agrmnt-Form

I:\c\Ayres Associates\Comprehensive Outdoor Recreation Plan Update (5-6-15)



SCOPE OF SERVICES

TASK I. SITE ANALYSIS

- Conduct background research and data collection. Acquire and review existing plans, reports, and maps related to the project.
- Attend kick-off meeting with city staff (Meeting #1). This meeting will address topics including:
 - Goals and objectives
 - Mission statement
 - Priorities
- Identify key stakeholder groups for public input process.
- Establish project timeline and schedule public meeting dates.
- Tour existing city-owned school playground, adjacent regional park, and open space sites to conduct facility inventory and analysis. Photo document existing facilities in city parks during the inventory and analysis visit. Elements to be investigated include:
 - Recreational facilities
 - Amenities
 - Site access and connectivity
 - Linear greenspaces and green infrastructure
 - ADA accessibility
 - Safety issues
 - Environmental impacts (drainage, noise abatement, wetlands, etc.)
- Create and administer an online survey and community comment portal.
- Attend work session meeting (Meeting #2) with staff to review existing park facilities, staffing issues, ordinances, long term needs, and proposed community-wide land use plans, and to identify future open space opportunities.
- Conduct stakeholder interviews with selected staff and public officials (Meeting #3).
- Complete open space analysis of comparable communities to develop benchmarks for West Allis' open space.
- Communicate on a regular basis (bi-weekly minimum) with city staff via conference call and/or e-mail.

Deliverables for Task I: (All deliverables sent electronically in PDF or native file format unless otherwise noted.)

- 1 (8.5"x11") Summary memo from kick-off meeting
- 1 Updated project timeline
- 1 (8.5"x11") Summary memo from city staff work session meeting
- 1 (8.5"x11") Summary of stakeholder interviews
- 1 (8.5"x11") Summary memo of preliminary findings from public input
- Preliminary facility inventory matrix

Project: 00-0000.00 File: m:\proposals\m4600\m4692-westallis_corp\contract\west allis scope.docx

- Digital site photographs
- Field notes and observations

TASK II. PRELIMINARY PLAN DEVELOPMENT

- Analyze feedback from staff and public input.
- Create plan maps and identify zones of strength and weakness. Maps may include:
 - Existing park and open space system (including growth areas)
 - Park service areas
 - Pedestrian and other trail route connectivity
 - Proposed park system plan
 - Facility capacity
- Conduct a demographic analysis and level of service distribution comparison in coordination with local and regional entities. Maps may include:
 - Age cohort analysis
 - Concentration of population and level of outdoor recreation service
- Formulate preliminary recommendations to include:
 - Promotion and education
 - Facilities and operations (including strategies for barrier-free access; ADA compliance)
 - Environmentally sustainable practices
 - Surplus or shortage property strategies
 - Schematic concept plans for facilities in need of major improvements
- Conduct staffing organizational analysis.
- Prepare preliminary draft plan and associated graphics.
- Present preliminary draft plan to city staff (Meeting #4).
- Communicate on a regular basis (bi-weekly minimum) with staff via conference call and/or e-mail.

TASK III. FINAL PLAN DEVELOPMENT

- Update recommendations based upon feedback from city staff.
- Formulate cost estimates for proposed improvements/options.
- Establish implementation timeline and priority table.
- Create a ten year CIP for the park system, with cost projections for development, maintenance and acquisition. This will also include a long term (20 year) strategy for implementation.
- Provide an analysis of current funding levels and practices.
- Identify new opportunities and develop potential funding strategies.
- Develop maintenance and management strategy for properties to include cooperative operations agreements and partnerships.
- Prepare final draft report documents to include all graphic plans and relative character images.
- Present final plan to Common Council and city staff (Meeting #5).
- Communicate on a regular basis (bi-weekly minimum) with staff via conference call and/or e-mail.

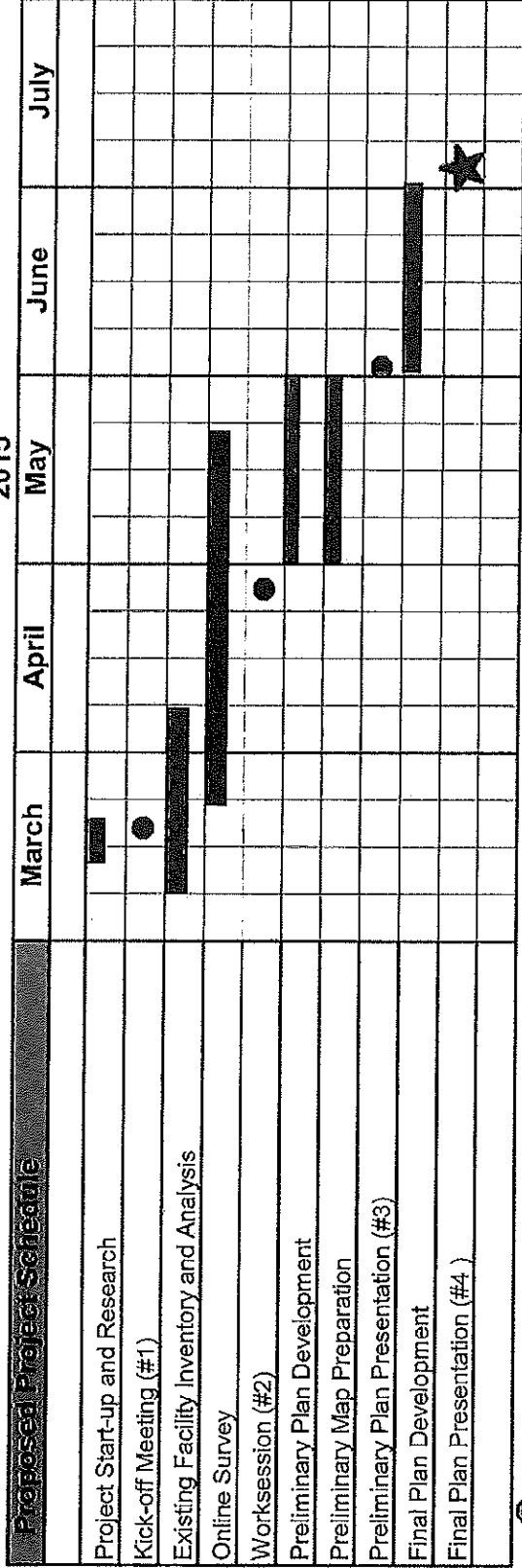
Deliverables for Task II: (All deliverables sent electronically in PDF or native file format unless otherwise noted.)

- 1 (11"x17") Preliminary plan map set
- 1 (8.5"x11") Preliminary recommendations memo
- 1 (24"x36") Printed set of mounted presentation materials
- 20 (8.5"x11") Printed black & white preliminary draft plans with fold out maps and graphics
- 1 PDF format set of presentation materials
- 1 PowerPoint format presentation on CD

Deliverables for Task III:

- 10 (8.5"x11") Final color Comprehensive Outdoor Recreation Plan including fold-out maps and graphics
- 1 (24"x36") Printed set of final graphics
- 1 Compact disk or DVD containing:
 - PDF format Final Comprehensive Outdoor Recreation Plan
 - Final PowerPoint presentation

2015



● Proposed Meetings

The SAA Team proposes a schedule of approximately 4 months to complete this project with an assumed start date of March. The chart provides a graphic identifying each plan element and the time required to complete each element.

INSURANCE REQUIREMENTS FOR CONSULTANTS

A. INSURANCE REQUIRED.

Consultants shall purchase and maintain for the duration of the contract as required by the City or by Law, insurance indemnifying against claims, suits, personal injury, bodily injury to persons, or damage to property which arises from, or in connection with the performance of the work hereunder by the Consultant. Some contracts may require Completed Operations, Professional Liability or other insurance beyond the contract term.

Consultant acknowledges that the insurance coverage and policy limits set forth in this Insurance Requirement section constitute the minimum amount of coverage required. Any insurance policy or other proceeds broader than or in excess of the specified limits and coverage required in this section, which are applicable to a given loss, shall be available to the City. The Insurance Requirements under this Contract shall be greater of (1) the minimum coverage and limits specified in the Contract or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named. It is agreed that these Insurance Requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required here. No representation is made that the minimum Insurance Requirements of this Contract are sufficient to cover the obligations of the Consultant under the Contract.

Any deductibles or self-insured retentions shall be identified to the City; those which exceed \$10,000 must be declared to and approved by the City. City may require a review of the latest audited financial statements of the Consultant. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, agents and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defenses expenses.

All required insurance under this Contract is to be placed with insurers with a Best's rating of no less than A-VII. Said carriers to be admitted status with the State of Wisconsin, unless otherwise approved in advance by the City. City reserves the right to approve non-admitted carriers with a Best's rating of no less than AX.

Work shall not be commenced under the Contract until all insurance required under this paragraph has been obtained and evidence thereof in the form of certificates, with original endorsements effecting coverage, are filed with and approved by the City. The City reserves the right to require complete, certified copies of all required insurance policies at any such time. Copies of policies shall be provided by Consultant within 10 days of such request.

The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms approved by the City. For Worker's Compensation-related risks, only forms approved by the Insurance Commissioner are to be used.

Consultant shall include all subcontractors as insured's under its policies or shall furnish separate certificates and endorsements for each subcontractor. Consultant agrees to require in any subcontractor and other agreements to perform any operations under this Contract, or provide products or services in connection with this Contract (parties to such subcontracts and/or agreements collectively shall be referred to as "subcontractors"), that all Subcontractors comply with all of the provisions of this Contract, including the indemnity and insurance provisions to the extent they apply to the scope of the Subcontractor's operations and/or performance under this Contract. Subcontractors hired by Consultant agree to be bound to Consultant and City in the same manner and to the same extent as Consultant is bound to City under this Contract. No subcontractor shall be permitted to commence work until all required coverage has been obtained and certificates and endorsements thereof are filed with the City. A copy of the Indemnity and Insurance Requirements shall be furnished to the Subcontractors by Consultant upon request.

If any part of a loss is not covered because of the application of a deductible or retention, said loss shall be born by the general Consultant and not the City. Failure to maintain the required insurance may result in termination of this Contract at the option of the City.

It is Consultant's responsibility to ensure its compliance with the Insurance Requirements of the Contract. Any actual or alleged failure on the part of the City to obtain proof of insurance required under the Contract shall not in any way be construed to be a waiver of any right or remedy of the City, in this or any regard.

B. GENERAL ENDORSEMENTS.

The protection afforded by the required insurance policies under this Contract shall include, but shall not be limited to, the following:

1. Occurrence Based Policies. All required Liability insurance under this Contract shall be written on an "occurrence" form, except separately approved Professional Liability Policies.
2. Representation of Coverage Adequacy. By requiring insurance for this Contract, City does not represent or warrant that coverage and limits will be adequate to protect the Consultant, subcontractor, their agents or any project engineer.
3. Cross-Liability Coverage. If the Consultant's liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.
4. Cancellation. The insurer shall endeavor to give the Director of Public Works/City Engineer at least ten (10) days prior written notice of any suspension or cancellation of the policy, or any reduction in coverage or in limits. In addition, the Consultant shall immediately notify the Director of Public Works/City Engineer whenever it receives notice from the insurer that the policy has been cancelled or suspended or there has been a reduction in coverage or limits.

Cancellation or suspension of the policy or reduction in coverage or limits shall constitute a material breach and is grounds for immediate termination of the Contract. Upon notice to the Consultant by the City upon the City's learning of said breach, the Consultant shall immediately cease all Work on the Project.

5. Additional Insured's. The City, its officers (elected and appointed), employees, agents and volunteers must be named as additional insured's as their interests may appear on the Consultant's General Liability insurance policy.. Additional insured status shall be endorsed onto the insurance policy by the appropriate ISO Endorsement Form approved by the City and executed by duly authorized agents of said carrier.
6. Primary Insurance. Consultant's insurance shall provide primary insurance to the City, to the exclusion of any other insurance or self-insurance programs the City may carry. Any insurance or self-insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute to it.
7. Waiver of Subrogation. Consultant waives all rights against the City, its officers, employees, agents and volunteers for recovery of damages to the extent these damages are covered by the insurance the Consultant is required to carry pursuant to this Contract.
8. Reporting. Failure to comply with any insurance policy reporting provisions shall not affect coverage provided to the City.
9. Cross Liability. The required insurance coverages shall apply separately to each insured against whom claim is made or suit brought, except with respect to the limits of the insurer's liability.
10. Indemnification. The policies shall contain an acknowledgement by the underwriters that, to the fullest extent permitted by law, the Consultant shall, to the extent and percentage of Consultant's negligence, indemnify and save harmless the City against any and all claims resulting from

the wrongful or negligent acts or omissions of the Consultant or other parties acting on its behalf under the Contract; and that the hold harmless assumption on the part of the Consultant shall include all reasonable costs necessary to defend a lawsuit including actual reasonable attorney fees. The obligation to indemnify and defend the City as set forth herein shall survive the termination or completion of this Contract for the full period of time allowed by law. The parties agree that if any part of this indemnification provision is found to conflict with applicable laws, such part shall be unenforceable only insofar as it conflicts with said laws, and that this indemnification shall be judicially interpreted and rewritten to provide the broadest possible indemnification legally allowed and shall be legally binding upon Consultant.

C. MINIMUM LIMITS AND OTHER PROVISIONS.

1. WORKER'S COMPENSATION INSURANCE.

Workers Compensation Insurance:

Wisconsin statutory limits for all employees of the bidder to whom the award is made.

All subcontractors and materialmen shall furnish to the Consultant and the City certificates of similar insurance for all of their respective employees, unless such employees are covered by the protection afforded by the Consultant.

2. GENERAL LIABILITY INSURANCE.

a. Coverage. Coverages must include, but are not limited to the following:

"Occurrence" Coverage Form must be as broad as Insurance Service Form (ISO) (form CG 00 01) and include the following:

- Premises and Operations
- Products and Completed Operations, applicable for at least three years following acceptance of the work

- Personal Injury with Employment Exclusion deleted
- Unlicensed Mobile Equipment
- Explosion, Collapse and Underground Hazard Coverages
- Blanket Contractual (Independent Consultant's Protective)
- Contractual Liability coverage at least as broad as coverage provided by the ISO CG 00 01 policy form must be included and shall not limit by any modification or endorsement, coverage for liabilities assumed by Consultant under this Contract.
- Broad Form Property Damage
- Contingent Coverage for Subcontractors
- Care, Custody and Control Coverages for City Owned or Purchased Materials at the Work Site

b. Minimum Limits of Liability:

Per Occurrence Limit:	\$1,000,000
Policy Aggregate Limit:	\$2,000,000
Personal Injury Limit:	\$1,000,000
Fire Damage Limit:	\$50,000
Medical Expense Limit:	\$5,000

3. BUSINESS AUTOMOBILE LIABILITY INSURANCE.

- a. Coverage. Coverage must be as broad as ISO CA 00 01 - Occurrence Form Code No. 1, "any auto" and include the following:
 Comprehensive Coverage for all Owned, Non-Owned or Hired Motor Vehicles driven by the employees of the Consultant or Subcontractors, including vehicles and equipment owned by the City if used exclusively for the project.
- Uninsured or Underinsured Motorists Liability Coverage at full policy limits.

Transportation by insured vehicles of pollutants, or toxic wastes (as determined by the EPA) shall require a minimum of the Pollution Liability Endorsement (CA9948) and/or the Motor Carrier Act Endorsement (MCA90) to address damages and clean-up costs.

b. Minimum Limits of Liability:

Per Occurrence/Accident for Bodily Injury and Property Damage:
\$1,000,000

4. PROFESSIONAL LIABILITY/ERRORS & OMISSIONS COVERAGE.

a. Coverage. Standard form; coverage provided on a claims – made basis with at least three years extended reporting period; to include all liability assumed by Consultant for the project. The minimum three year extension shall be for at least three years after all operations and/or performance under this Contract are complete, and additional claims-made coverage requirements apply as described below:

For any coverage that is provided on a claims-made form (which type of form is permitted only where specified above):

1. The retroactive date must be shown and must be before the date of the Contract, and before the beginning of any operations and/or performance related to this Contract;
2. Insurance must be maintained and Certificates of Insurance must be provided to the City for at three years after termination or completion of the Contract or completion of the contract work;
3. If coverage is cancelled or not-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Contract, Consultant must purchase an extended reporting

period for a minimum of three years after termination of this Contract or completion of contract work.

b. Minimum Limits of Liability: Minimum \$1 Million (project specific).

5. UMBRELLA LIABILITY.

Five million dollars (\$5,000,000) following form excess of the primary General Liability, Automobile Liability and Employers Liability Coverages. If excess or umbrella policies are used to meet the Insurance Requirements of this section, they shall provide coverage at least as broad as specified for the underlying coverages, and the full limits of the umbrella or excess coverage shall be available to the City. Such policy or policies shall include as insured's those covered under the underlying policies, including additional insured's, with a severability of interests provision applicable to the additional insured's. Such policy or policies shall contain, or be endorsed to contain, a provision that such coverage shall also apply on a primary and non-contributory basis to the City before the City's own primary liability policy or self-insurance shall be called upon to protect it as a named insured. Coverage shall apply on a "pay on behalf" basis.

NON -DISCRIMINATION STATEMENT

The City of West Allis does not discriminate against individuals on the basis of race, color, religion, age, marital or veteran's status, sex, national origin, disability, or any other legally protected status in the admission or access to, or treatment or employment in, its services, programs or activities.

LIMITED ENGLISH PROFICIENCY STATEMENT

It is the policy of the City of West Allis to provide language access services to populations of persons with Limited English Proficiency (LEP) who are eligible to be served or likely to be directly affected by our programs. Such services will be focused on providing meaningful access to our programs, services and/or benefits.

Rev 4/2014
SEP/kp
L:Scott/Contracts/Consultant ContractRev2014

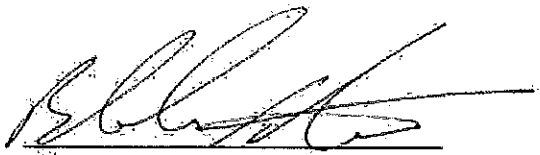
Contract Amendment Regarding Notice of Insurance Cancellation

Section B (4) of the Insurance Requirements attached to this Agreement is hereby amended as follows:

Consultant shall provide, in a form acceptable to the City Attorney, an endorsement from consultant's liability insurance carrier(s) providing that the City shall be notified of cancellation of the policy (or policies) 30 days prior to cancellation. If this endorsement does not include at least 10-day notice of cancellation due to nonpayment of premium, Consultant shall provide or cause its insurance broker to provide to the City a new certificate of insurance, in a form acceptable to the City Attorney, every 30 calendar days that shows that Consultant's insurance remains valid.

Failure to timely provide the required certificate of insurance shall result in the City issuing an immediate Stop Work order. Upon issuance of such Stop Work order, Consultant shall immediately cease all operations related to this Agreement. Consultant shall not resume operations until such time as an approved certificate of insurance is received and Consultant is notified that it may resume operations. Any delay in completion or additional costs associated with such Stop Work order shall be the responsibility of Consultant and such additional costs shall be borne by Consultant.

Dated this 4 day of 5, 2015



Consultant



City of West Allis



AYREASS-01

RSAUER

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/28/2015

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

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

PRODUCER Johnson Insurance Madison 525 Junction Road Madison, WI 53717	CONTACT NAME: Mary Jo Nowak, AU, CIC, ARM, RPLU
	PHONE (A/C, No, Ext): (608) 203-3880 FAX (A/C, No): (877) 254-8586 E-MAIL ADDRESS: mnowak@johnsonins.com
INSURER(S) AFFORDING COVERAGE	
INSURER A: RLI Insurance Group	NAIC # 13056
INSURED	
Ayres Associates Inc 3433 Oakwood Hills Pkwy Eau Claire, WI 54701	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

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

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD / WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:					EACH OCCURRENCE	\$
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
						MED EXP (Any one person)	\$
						PERSONAL & ADV INJURY	\$
						GENERAL AGGREGATE	\$
						PRODUCTS - COMP/OP AGG	\$
							\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident)	\$
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
							\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A				PER STATUTE	OTH-ER
						E.L. EACH ACCIDENT	\$
						E.L. DISEASE - EA EMPLOYEE	\$
						E.L. DISEASE - POLICY LIMIT	\$
A	Professional Liab		RDP0015748	06/30/2014	06/30/2015	Each Claim	5,000,000
A	Professional Liab		RDP0015748	06/30/2014	06/30/2015	Aggregate	5,000,000

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

CERTIFICATE HOLDER**CANCELLATION**

City of West Allis
 7525 W Greenfield Ave
 West Allis, WI 53214

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

Patricia Kelp

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ADDITIONAL REMARKS SCHEDULE

AGENCY Arthur J. Gallagher Risk Management Services, Inc.		NAMED INSURED AYRES ASSOCIATES INC PO BOX 1590 EAU CLAIRE, WI 54702-1590	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
 FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

The Producer will endeavor to mail 10 days written notice to the Certificate Holder named on the certificate if any policy listed on the certificate is cancelled prior to the expiration date. Failure to do so shall impose no obligation or liability of any kind upon the Producer or otherwise alter the policy terms.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

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

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

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

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

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

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

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

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

Duties Of An Additional Insured

As a condition of coverage provided to the additional insured:

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

COMMERCIAL GENERAL LIABILITY

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

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

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

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

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

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

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



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ARCHITECTS, ENGINEERS AND SURVEYORS INDUSTRYEDGESM ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

- | | |
|---|---|
| <ul style="list-style-type: none"> A. Broadened Named Insured B. Incidental Medical Malpractice C. Reasonable Force – Bodily Injury Or Property Damage D. Non-Owned Watercraft – Increased To Up To 75 feet E. Aircraft Chartered With Pilot F. Extension Of Coverage – Damage To Premises Rented To You G. Personal Injury – Assumed by Contract H. Increased Supplementary Payments I. Additional Insured – Owner, Manager Or Lessor Of Premises J. Additional Insured – Lessor Of Leased Equipment K. Additional Insured – State Or Political Subdivisions – Permits Relating To Premises L. Additional Insured – State Or Political Subdivisions – Permits Relating To Operations | <ul style="list-style-type: none"> M. Who Is An Insured – Newly Acquired Or Formed Organizations N. Injury To Co-Employees And Co-Volunteer Workers O. Medical Payments Limit P. Knowledge And Notice Of Occurrence Or Offense Q. Other Insurance Condition R. Unintentional Omission S. Waiver Of Transfer Of Rights Of Recovery Against Others To Us When Required By Contract T. Amended Bodily Injury Definition U. Amended Insured Contract Definition – Railroad Easement V. Additional Definition – Written Contract Requiring Insurance |
|---|---|

PROVISIONS

A. BROADENED NAMED INSURED – UNNAMED SUBSIDIARIES

The Named Insured in Item 1. of the Declarations is amended as follows:

The person or organization named in Item 1. of the Declarations and any organization, other than a partnership, joint venture, limited liability company or trust, of which you are the sole owner or in which you maintain the majority ownership interest on the effective date of the policy. How-

ever, coverage for any such additional organization will cease as of the date, if any, during the policy period, that you no longer are the sole owner of, or maintain the majority ownership interest in, such organization.

B. INCIDENTAL MEDICAL MALPRACTICE

1. The following is added to the definition of "occurrence" in the **DEFINITIONS** Section:

Unless you are in the business or occupation of providing professional health care services, "occurrence" also means an act or omission



COMMERCIAL GENERAL LIABILITY

committed by any of your "employees" who is employed by you as a registered nurse, licensed practical nurse, emergency medical technician or paramedic, in providing or failing to provide "incidental medical services" or "Good Samaritan services" to a person.

2. The following is added to the DEFINITIONS Section:

a. "Incidental medical services" means medical, surgical, dental, laboratory, x-ray or nursing service, treatment, advice or instruction; the related furnishing of food or beverages; the furnishing or dispensing of drugs or medical supplies or appliances; or first aid.

b. "Good Samaritan services" means those medical services rendered or provided in an emergency and for which no remuneration is demanded or received.

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

Paragraphs (1) (a), (b), (c) and (d) above do not apply to any of your "employees" who are employed by you as a registered nurse, licensed practical nurse, emergency medical technician or paramedic but only while performing the services described in Paragraph 1. above and while acting within the scope of their employment by you. Any such "employees" rendering "incidental medical services" or "Good Samaritan services" will be deemed to be acting within the scope of their employment by you.

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

Sale of Pharmaceuticals

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

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

This insurance is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to you or any of your "employees"

for "bodily injury" that arises out of providing or failing to provide "incidental medical services" or "Good Samaritan services", except for insurance purchased specifically by you to apply in excess of the Limits of Insurance shown in the Declarations for this Coverage Part.

6. The following is added to Paragraph 5. of SECTION III – LIMITS OF INSURANCE:

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

C. REASONABLE FORCE PROPERTY DAMAGE – EXCEPTION TO EXPECTED OR INTENDED INJURY EXCLUSION

The following replaces Exclusion a., **Expected Or Intended Injury**, in Paragraph 2. of SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

a. Expected Or Intended Injury Or Damage

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect any person or property.

D. NON-OWNED WATERCRAFT – INCREASED TO UP TO 75 FEET

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

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

(a) Less than 75 feet long; and

(b) Not being used to carry any person or property for a charge.

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

Any person who, with your expressed or implied consent, either uses or is responsible for the use of a nonowned watercraft that is less than 75 feet and not being used to carry person or property for a charge is included as an insured under this Coverage Part.

E. AIRCRAFT CHARTERED WITH PILOT

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

This exclusion does not apply to an aircraft that is:

- (a) Chartered with a pilot to any insured; and
- (b) Not owned by any insured.

F. EXTENSION OF COVERAGE – DAMAGE TO PREMISES RENTED TO YOU

1. The following replaces the last paragraph of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

Exclusions c. through n. do not apply to damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:

- a. Fire;
- b. Explosion;
- c. Lightning;
- d. Smoke resulting from such fire, explosion, or lightning; or
- e. Water.

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

2. The insurance under this Provision F. does not apply to damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:

- a. Rupture, bursting, or operation of pressure relief devices;
- b. Rupture or bursting due to expansion or swelling of the contents of any building or structure, caused by or resulting from water; or
- c. Explosion of steam boilers, steam pipes, steam engines, or steam turbines.

3. The following replaces Paragraph 6. of **SECTION III – LIMITS OF INSURANCE**

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

of the owner, caused by: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water. The Damage To Premises Rented To You Limit will apply to all "property damage" proximately caused by the same "occurrence", whether such damage results from: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water; or any combination of any of these causes.

The Damage To Premises Rented To You Limit will be the higher of:

- a. \$300,000; or
- b. The amount shown for the Damage To Premises Rented To You Limit in the Declarations for this Coverage Part.

4. The following replaces Paragraph a. of the definition of "insured contract" in the **DEFINITIONS** Section:

- 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 to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water is not an "insured contract";

G. PERSONAL INJURY – ASSUMED BY CONTRACT

The following replaces Exclusion e., **Contractual Liability** in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**:

"Advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

H. INCREASED SUPPLEMENTARY PAYMENTS

1. The following replaces Paragraph 1.b. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** of **SECTION I – COVERAGES**:

- b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.



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2. The following replaces Paragraph 1.d. of SUPPLEMENTARY PAYMENTS – COVERAGES A AND B of SECTION I – COVERAGES:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

I. ADDITIONAL INSURED – OWNER, MANAGER OR LESSOR OF PREMISES

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

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

- a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you have entered into that "written contract requiring insurance"; and
- b. Only if the "bodily injury", "property damage" or "personal injury" is caused, in whole or in part, by acts or omissions of you or any person or organization performing operations on your behalf, and arises out of the ownership, maintenance or use of that part of any premises leased to you under that "written contract requiring insurance".

2. The insurance provided to such additional insured under this Provision I. is subject to the following provisions:

- a. The limits of insurance afforded to such additional insured shall be the limits which you agreed to provide in the "written contract requiring insurance", or the limits shown in the Declarations for this Coverage Part, whichever are less; and
- b. The insurance afforded to such additional insured does not apply to:
 - (1) Any "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you cease to be a tenant in that premises;
 - (2) Any structural alterations, new construction or demolition operations

performed by or on behalf of such additional insured; or

- (3) Any premises for which coverage is excluded by another endorsement to this Coverage Part.

3. This Provision I. does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

J. ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT

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

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

- a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you have entered into that "written contract requiring insurance"; and
- b. Only if the "bodily injury", "property damage" or "personal injury" is caused, in whole or in part, by acts or omissions of you or any person or organization performing operations on your behalf, in the maintenance, operation or use of equipment leased to you by such additional insured.

2. The insurance provided to such additional insured under this Provision J. is subject to the following provisions:

- a. The limits of insurance afforded to such additional insured shall be the limits which you agreed to provide in the "written contract requiring insurance", or the limits shown in the Declarations for this Coverage Part, whichever are less; and
- b. The insurance afforded to such additional insured does not apply:
 - (1) To any "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after the equipment lease expires; or
 - (2) If the equipment is leased with an operator.

3. This Provision J. does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

K. ADDITIONAL INSURED – STATE OR POLITICAL SUBDIVISIONS – PERMITS RELATING TO PREMISES

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

Any state or political subdivision that has issued a permit in connection with premises owned or occupied by, or rented or loaned to, you, is an insured, but only with respect to "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, elevators, street banners or decorations for which that state or political subdivision has issued such permit.

L. ADDITIONAL INSURED – STATE OR POLITICAL SUBDIVISIONS – PERMITS RELATING TO OPERATIONS

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

Any state or political subdivision that has issued a permit is an insured, but only with respect to "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of operations performed by you or on your behalf for which that state or political subdivision has issued such permit. However, no such state or political subdivision is an insured for:

1. "Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of operations performed for that state or political subdivision; or
2. "Bodily injury" or "property damage" included within the "products – completed operations hazard".

M. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED ORGANIZATIONS

The following replaces Paragraph 4.a. of **SECTION II – WHO IS AN INSURED**:

- 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 pe-

riod, whichever is earlier. Any such newly acquired or formed organization that you report in writing to us within 180 days after you acquire or form the organization will be covered under this provision until the end of the policy period, even if there are more than 180 days remaining until the end of the policy period.

N. INJURY TO CO-EMPLOYEES AND CO-VOLUNTEER WORKERS

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

1. Your "employees" are insureds with respect to "bodily injury" to a co-"employee" in the course of the co-"employee's" employment by you, or to your "volunteer workers" while performing duties related to the conduct of your business, provided that this coverage for your "employees" does not apply to acts outside the scope of their employment by you or while performing duties unrelated to the conduct of your business.
2. Your "volunteer workers" are insureds with respect to "bodily injury" to a co-"volunteer worker" while performing duties related to the conduct of your business, or to your "employees" in the course of the "employee's" employment by you, provided that this coverage for your "volunteer workers" does not apply while performing duties unrelated to the conduct of your business.
3. Subparagraphs 2.a.(1)(a), (b) and (c) and 3.a. of **SECTION II – WHO IS AN INSURED** do not apply to "bodily injury" for which insurance is provided by paragraph 1. or 2. above.

O. MEDICAL PAYMENTS LIMIT

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

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

- a. \$10,000; or
- b. The amount shown on the Declarations for Medical Expense Limit.

P. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE

The following is added to Paragraph 2. **Duties In The Event of Occurrence, Offense, Claim Or**



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Suit of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

Notice of an "occurrence" or of an offense which may result in a claim must be given as soon as practicable after knowledge of the "occurrence" or offense has been reported to you, one of your "executive officers" (if you are a corporation), one of your partners who is an individual (if you are a partnership), one of your managers (if you are a limited liability company), one of your trustees who is an individual (if you are a trust), or an "employee" (such as an insurance, loss control or risk manager or administrator) designated by you to give such notice.

Knowledge by any other "employee" of an "occurrence" or offense does not imply that you also have such knowledge.

Notice of an "occurrence" or of an offense which may result in a claim will be deemed to be given as soon as practicable to us if it is given in good faith as soon as practicable to your workers' compensation, accident, or health insurer. This applies only if you subsequently give notice of the "occurrence" or offense to us as soon as practicable after you, one of your "executive officers" (if you are a corporation), one of your partners who is an individual (if you are a partnership), one of your managers (if you are a limited liability company), one of your trustees who is an individual (if you are a trust), or an "employee" (such as an insurance, loss control or risk manager or administrator) designated by you to give such notice discovers that the "occurrence" or offense may involve this policy.

Q. OTHER INSURANCE CONDITION

1. The following replaces Paragraph 4., **Other Insurance of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

4. Other Insurance

If valid and collectible "other insurance" is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the "other insurance" is also primary. Then, we will share with all that "other insur-

ance" 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) That is Fire, Extended Coverage, Builder's Risk, Installation Risk, or similar coverage for "your work";
- (2) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
- (3) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
- (4) If the loss arises out of the maintenance or use of aircraft, "autos", or watercraft to the extent not subject to Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability; or
- (5) That is available to the insured when the insured is an additional insured under any other policy, including any umbrella or excess policy.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any provider of "other insurance" has a duty to defend the insured against that "suit". If no provider of "other insurance" defends, we will undertake to do so, but we will be entitled to the insured's rights against all those providers of "other insurance".

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

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

We will share the remaining loss, if any, with any "other insurance" that is not described in this Excess Insurance provision.

c. Method Of Sharing

If all of the "other insurance" permits contribution by equal shares, we will follow this method also. Under this approach each provider of insurance 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, the share of each provider of insurance is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all providers of insurance.

2. The following definition is added to SECTION V – DEFINITIONS:

"Other insurance":

a. Means insurance, or the funding of losses, that is provided by, through or on behalf of:

- (1) Another insurance company;
(2) Us or any of our affiliated insurance companies, except when the Non cumulation of Each Occurrence Limit section of Paragraph 5. of LIMITS OF INSURANCE (Section III) or the Non cumulation of Personal and Advertising Injury limit sections of Paragraph 4. of LIMITS OF INSURANCE (Section III) applies;
(3) Any risk retention group;
(4) Any self-insurance method or program, other than any funded by you and over which this Coverage Part applies; or
(5) Any similar risk transfer or risk management method.

b. Does not include umbrella insurance, or excess insurance, that you bought specifically to apply in excess of the Limits of

Insurance shown on the Declarations of this Coverage Part.

R. UNINTENTIONAL OMISSION

1. The following is added to Paragraph 6. Representations of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy shall not prejudice your rights under this insurance.

2. This Provision R. does not affect our right to collect additional premium or to exercise our right of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

S. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US WHEN REQUIRED BY CONTRACT

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

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of:

- 1. Premises owned by you, temporarily occupied by you with permission of the owner, or leased or rented to you;
2. Ongoing operations performed by you, or on your behalf, under a contract or agreement with that person or organization;
3. "Your work"; or
4. "Your products".

We waive these rights only where you have agreed to do so as part of a "written contract requiring insurance" entered into by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense or "advertising injury" offense is committed.

T. AMENDED BODILY INJURY DEFINITION

The following replaces the definition of "bodily injury" in the DEFINITIONS Section:

"Bodily injury" means bodily injury, mental anguish, mental injury, shock, fright, disability, humiliation, sickness or disease sustained by a per-



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son, including death resulting from any of these at any time.

U. AMENDED INSURED CONTRACT DEFINITION – RAILROAD EASEMENT

1. Subparagraph c. of the definition of "insured contract" in the DEFINITIONS Section is replaced by the following:

c. Any easement or license agreement;

2. Subparagraph f.(1) of the definition of "insured contract" in the DEFINITIONS Section is deleted.

V. ADDITIONAL DEFINITION – WRITTEN CONTRACT REQUIRING INSURANCE

The following definition is added to the DEFINITIONS Section:

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

a. After the signing and execution of the contract or agreement by you;

b. While that part of the contract or agreement is in effect; and

c. Before the end of the policy period.