To: Mayor Farrer and the Honorable Members of the City Council

Prepared by: Robert DuBoux, Public Works Director/City Engineer

Approved by: Reva Feldman, City Manager

Date prepared: June 1, 2020 Meeting date: June 22, 2020

Subject: Professional Services Agreement with Yeh and Associates, Inc.

RECOMMENDED ACTION: Authorize the City Manager to execute a Professional Services Agreement with Yeh and Associates, Inc. for maintenance and monitoring services for the Big Rock Mesa, Malibu Road, and Calle Del Barco Landslide Assessment Districts (ADs).

FISCAL IMPACT: Funding for this project was included in the Proposed Budget for Fiscal Year 2020-2021 in Account Nos. 290-6002-5100 (Big Rock Mesa Landslide Maintenance District), 291-6003-5100 (Malibu Road Landslide Maintenance District) and 292-6004-5100 (Calle Del Barco Landslide Maintenance District).

WORK PLAN: This item was included as item 8e in the Adopted Work Plan for Fiscal Year 2019-2020.

DISCUSSION: On March 9, 2020, the City issued a Request for Qualifications/Proposals (RFQ/P) for maintenance and monitoring of the City’s three Landslide Assessment Districts (ADs); Big Rock Mesa AD 98-1, Calle Del Barco AD 98-2, and Malibu Road AD 98-3. On April 16, 2020, the City received four (4) proposals and on May 22, 2020, the following firms were interviewed:

- Cotton, Shires and Associates, Inc.
- Engeo, Inc.
- Fugro
- Yeh and Associates, Inc.

A selection panel, including two property owners in the Big Rock neighborhood, reviewed the proposals and evaluated each consultant. The selection panel identified
Yeh and Associates, Inc., as the most qualified for this project. Staff recommends awarding the project to Yeh and Associates, Inc., to provide maintenance and monitoring services for the three Landslide Maintenance ADs.

**ATTACHMENT:** Professional Services Agreement with Yeh and Associates, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into as of June 22, 2020 by and between the City of Malibu (hereinafter referred to as the "City"), and Yeh and Associates, Inc. (hereinafter referred to as "Consultant").

The City and the Consultant agree as follows:

RECITALS

A. The City does not have the personnel able and/or available to perform the services required under this Agreement.

B. The City desires to contract out for consulting services for certain projects relating to Landslide Maintenance and Monitoring for Big Rock Mesa, Called Del Barco and Malibu Road Districts.

C. The Consultant warrants to the City that it has the qualifications, experience and facilities to perform properly and timely the services under this Agreement.

D. The City desires to contract with the Consultant to perform the services as described in Exhibit A of this Agreement.

NOW, THEREFORE, the City and the Consultant agree as follows:

1.0 SCOPE OF THE CONSULTANT’S SERVICES. The Consultant agrees to provide the services and perform the tasks set forth in the Scope of Work, attached to and made part of this Agreement, except that, to the extent that any provision in Exhibit A conflicts with this Agreement, the provisions of this Agreement govern. The Scope of Work may be amended from time to time by way of a written directive from the City.

The Consultant shall perform services under this agreement in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the time and in the same of similar locality.

2.0 TERM OF AGREEMENT. This Agreement will become effective on June 22, 2020, and will remain in effect for a period of four (4) years from said date unless otherwise expressly extended in one (1) year increments up to a total of two (2) additional years and agreed to by both parties or terminated by either party as provided herein.

3.0 CITY AGENT. The City Manager, or her designee, for the purposes of this Agreement, is the agent for the City; whenever approval or authorization is required, Consultant understands that the City Manager, or her designee, has the authority to provide that approval or authorization.
4.0 COMPENSATION FOR SERVICES. The City shall pay the Consultant for its professional services rendered and costs incurred pursuant to this Agreement in accordance with Exhibit A, Scope of Work, and cost schedule per Exhibit B. No additional compensation shall be paid for any other expenses incurred, unless first approved by the City Manager, or her designee.

4.1 The Consultant shall submit to the City, by no later than the 10th day of each month, its bill for services itemizing the fees and costs incurred during the previous month. The City shall pay the Consultant all uncontested amounts set forth in the Consultant's bill within 30 days after it is received.

5.0 CONFLICT OF INTEREST. The Consultant represents that it presently has no interest and shall not acquire any interest, direct or indirect, in any real property located in the City which may be affected by the services to be performed by the Consultant under this Agreement. The Consultant further represents that in performance of this Agreement, no person having any such interest shall be employed by it.

5.1 The Consultant represents that no City employee or official has a material financial interest in the Consultant's business. During the term of this Agreement and/or as a result of being awarded this contract, the Consultant shall not offer, encourage or accept any financial interest in the Consultant's business by any City employee or official.

5.2 If a portion of the Consultant's services called for under this Agreement shall ultimately be paid for by reimbursement from and through an agreement with a developer of any land within the City or with a City franchisee, the Consultant warrants that it has not performed any work for such developer/franchisee within the last 12 months, and shall not negotiate, offer or accept any contract or request to perform services for that identified developer/franchisee during the term of this Agreement.

6.0 GENERAL TERMS AND CONDITIONS.

6.1 Termination. Either the City Manager or the Consultant may terminate this Agreement, without cause, by giving the other party ten (10) days written notice of such termination and the effective date thereof.

6.1.1 In the event of such termination, all finished or unfinished documents, reports, photographs, films, charts, data, studies, surveys, drawings, models, maps, or other documentation prepared by or in the possession of the Consultant under this Agreement shall be returned to the City. If the City terminates this Agreement without cause, the Consultant shall prepare and shall be entitled to receive compensation pursuant to a close-out bill for services rendered and fees incurred pursuant to this Agreement through the notice of termination. If the Consultant terminates this Agreement without cause, the Consultant shall be paid only for those services completed in a manner satisfactory to the City.

6.1.2 If the Consultant or the City fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Consultant or the City violate any of the
covenants, agreements, or stipulations of this Agreement, the Consultant or the City shall have
the right to terminate this Agreement by giving written notice to the other party of such
termination and specifying the effective date of such termination. The Consultant shall be
entitled to receive compensation in accordance with the terms of this Agreement for any work
satisfactorily completed hereunder. Notwithstanding the foregoing, the Consultants shall not be
relieved of liability for damage sustained by virtue of any breach of this Agreement and any
payments due under this Agreement may be withheld to off-set anticipated damages.

6.2 Non-Assignability. The Consultant shall not assign or transfer any
interest in this Agreement without the express prior written consent of the City.

6.3 Non-Discrimination. The Consultant shall not discriminate as to race,
creed, gender, color, national origin or sexual orientation in the performance of its services and
duties pursuant to this Agreement, and will comply with all applicable laws, ordinances and
codes of the Federal, State, County and City governments.

6.4 Insurance. The Consultant shall submit to the City certificates indicating
compliance with the following minimum insurance requirements no less than one (1) day prior to
beginning of performance under this Agreement:

(a) Workers Compensation Insurance as required by law. The
Consultant shall require all subcontractors similarly to provide such compensation insurance for
their respective employees.

(b) Comprehensive general and automobile liability insurance
protecting the Consultant in amounts not less than $1,000,000 for personal injury to any one
person, $1,000,000 for injuries arising out of one occurrence, and $500,000 for property damages
or a combined single limit of $1,000,000. Each such policy of insurance shall:

1) Be issued by a financially responsible insurance company
or companies admitted and authorized to do business in the State of California or which is
approved in writing by City.

2) Name and list as additional insured the City, its officers and
employees.

3) Specify its acts as primary insurance.

4) Contain a clause substantially in the following words: "It is
hereby understood and agreed that this policy shall not be canceled nor materially changed
except upon thirty (30) days prior written notice to the City of such cancellation or material
change."
5) Cover the operations of the Consultant pursuant to the terms of this Agreement.

6.5 Indemnification.

(a) Non Design Professional Services. Consultant shall indemnify and hold harmless City, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Consultant’s negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole active negligence or willful misconduct of the City. The Consultant shall promptly pay any final judgment rendered against the City (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of the Consultant’s negligent, reckless or willful misconduct. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

(b) Design Professional Services. If Consultant’s obligation to defend, indemnify, and/or hold harmless arises out of Consultant’s performance of “design professional” services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporate herein, Consultant’s indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant’s liability for such claim, including the cost to defend, shall not exceed the Consultant’s proportionate percentage of fault. Consultant acknowledges that any "design professional" services are separate and distinct from the maintenance and monitoring services contemplated by this Agreement.

6.6 Compliance with Applicable Law. The Consultant and the City shall comply with all applicable laws, ordinances and codes of the federal, state, county and city governments, including, without limitation, Malibu Municipal Code Chapter 5.36 Minimum Wage.

6.7 Independent Contractor. This Agreement is by and between the City and the Consultant and is not intended, and shall not be construed, to create the relationship of agency, servant, employee, partnership, joint venture or association, as between the City and the Consultant.

6.7.1. The Consultant shall be an independent contractor, and shall have no power to incur any debt or obligation for or on behalf of the City. Neither the City nor any of its officers or employees shall have any control over the conduct of the Consultant, or any of the Consultant’s employees, except as herein set forth, and the Consultant expressly warrants not to, at any time or in any manner, represent that it, or any of its agents, servants or employees are in any manner employees of the City, it being distinctly understood that the Consultant is and shall
at all times remain to the City a wholly independent contractor and the Consultant's obligations to the City are solely such as are prescribed by this Agreement.

6.8 Copyright. No reports, maps or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant.

6.9 Legal Construction.

(a) This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced and governed under the laws of the State of California.

(b) This Agreement shall be construed without regard to the identity of the persons who drafted its various provisions. Each and every provision of this Agreement shall be construed as though each of the parties participated equally in the drafting of same, and any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

(c) The article and section, captions and headings herein have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

(d) Whenever in this Agreement the context may so require, the masculine gender shall be deemed to refer to and include the feminine and neuter, and the singular shall refer to and include the plural.

6.10 Counterparts. This Agreement may be executed in counterparts and as so executed shall constitute an agreement which shall be binding upon all parties hereto.

6.11 Final Payment Acceptance Constitutes Release. The acceptance by the Consultant of the final payment made under this Agreement shall operate as and be a release of the City from all claims and liabilities for compensation to the Consultant for anything done, furnished or relating to the Consultant's work or services. Acceptance of payment shall be any negotiation of the City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by the City shall not constitute, nor be deemed, a release of the responsibility and liability of the Consultant, its employees, sub-consultants and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the City for any defect or error in the work prepared by the Consultant, its employees, sub-consultants and agents.

6.12 Corrections. In addition to the above indemnification obligations, the Consultant shall correct, at its expense, all errors in the work which may be disclosed during the City's review of the Consultant's report or plans. Should the Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by the City, and the cost thereof shall be charged to the Consultant.
6.13 Files. All files of the Consultant pertaining to the City shall be and remain the property of the City. The Consultant will control the physical location of such files during the term of this Agreement and shall be entitled to retain copies of such files upon termination of this Agreement.

6.14 Waiver; Remedies Cumulative. Failure by a party to insist upon the performance of any of the provisions of this Agreement by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this Agreement, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

6.15 Mitigation of Damages. In all such situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

6.16 Partial Invalidity. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

6.17 Attorneys' Fees. The parties hereto acknowledge and agree that each will bear his/her or its own costs, expenses and attorneys' fees arising out of and/or connected with the negotiation, drafting and execution of the Agreement, and all matters arising out of or connected therewith except that, in the event any action is brought by any party hereto to enforce this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that party or those parties may be entitled.

6.18 Entire Agreement. This Agreement constitutes the whole agreement between the City and the Consultant, and neither party has made any representations to the other except as expressly contained herein. Neither party, in executing or performing this Agreement, is relying upon any statement or information not contained in this Agreement. Any changes or modifications to this Agreement must be made in writing appropriately executed by both the City and the Consultant.
6.19 Notices. Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

CITY: Reva Feldman
City Manager
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265-4861
TEL (310) 456-2489 x 226
FAX (310) 456-2760

CONSULTANT: Yeh and Associates, Inc.
Loree A. Berry
Senior Project Manager
56 E. Main Street, Suite 104
Ventura, CA 93001
TEL (805) 481-9590 ext. 271

6.20 Warranty of Authorized Signatories. Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign.

7.0 GENERAL TERMS AND CONDITIONS. (City and Consultant initials required at EITHER 7.1 or 7.2)

7.1 Disclosure Required. By their respective initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is a “consultant” for the purposes of the California Political Reform Act because Consultant’s duties would require him or her to make one or more of the governmental decisions set forth in Fair Political Practices Commission Regulation 18700.3(a) or otherwise serves in a staff capacity for which disclosure would otherwise be required were Consultant employed by the City. Consultant hereby acknowledges his or her assuming-office, annual, and leaving-office financial reporting obligations under the California Political Reform Act and the City’s Conflict of Interest Code and agrees to comply with those obligations at his or her expense. Prior to consultant commencing services hereunder, the City’s Manager shall prepare and deliver to consultant a memorandum detailing the extent of Consultant’s disclosure obligations in accordance with the City’s Conflict of Interest Code.

City Initials
Consultant Initials

7.2 Disclosure not Required. By their initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is not a “consultant” for the purpose of the California Political Reform Act because Consultant’s duties and responsibilities are not within the scope of the definition of consultant in Fair Political Practice Commission Regulation 18700.3(a) and is otherwise not serving in staff capacity in accordance with the City’s Conflict of Interest Code.

City Initials
Consultant Initials
This Agreement is executed on ____________, 2020, at Malibu, California, and effective as of June 22, 2020.

CITY OF MALIBU:

REVA FELDMAN, City Manager

ATTEST:

HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEYS OFFICE

CHRISTI HOGIN, City Attorney

CONSULTANT:

Digitally signed by Jonathan D. Blanchard
Date: 2020.06.03 14:11:40 -07'00'
By: Jonathan D. Blanchard, Vice President
Yeh and Associates, Inc.
SCOPE OF WORK
EXHIBIT A

Consulting services relating to the maintenance and monitoring for the Big Rock Mesa, Calle Del Barco and Malibu Road Landslide Assessment Districts as described herein below:

Task 1 – Monitoring
The Consultant shall monitor, collect and record data from the facilities on a monthly to annual basis. The actual data collection interval may be adjusted by the Consultant in response to slope movement, rainfall, significant changes from the previous reading(s), as-requested by the City, or in relation to repair/maintenance. Collected data shall include the following:
   a. Groundwater level measurements from standpipes and pneumatic piezometers.
   b. Record dewatering production readings and check operational status of dewatering wells.
   c. Record dewatering production readings from horizontal drains (hydraulgers).
   d. Record ground deformation readings from slope inclinometers (max. depth ~400 ft).
   e. Record monthly readings of water usage data from the master water meter (Big Rock Mesa only).
   f. Conduct water quality sampling and analysis of dewatering discharges to maintain compliance with the current NPDES permit (Big Rock Mesa only).
   g. Record visual observations and any unusual or significant change in conditions within the district that may affect maintenance, monitoring, or capital improvements.

Task 2 – Maintenance
The Consultant shall provide routine and ongoing maintenance for instrumentation and dewatering facilities to maintain lowered groundwater levels, to maintain continuous operation of the dewatering facilities, and to improve, wherever practical, the function and efficiency of the facilities. Typical maintenance tasks include:
   a. Repair and calibration of well flow meters;
   b. Cleaning and repair of well plumbing and discharge lines;
   c. Electrical service maintenance of dewatering wells;
   d. Corrosion repair of dewatering facilities;
   e. Removal, inspection, and repair or replacement of well pumps; and
   f. Pressure cleaning of hydraulgers; and
   g. Repair and protection of facilities from geologic hazards (e.g. bluff erosion, rockfall, etc.)

Task 3 - Data Review, Evaluation, and Database Maintenance:
The Consultant shall:
   a. Collect, compile and review field monitoring data. Evaluate data trends and provide periodic communication with City staff regarding data analyses. Maintain databases of monitoring and maintenance records. Evaluate the need to refine and modify landslide geometries and models based on data from recent geotechnical investigations performed as part of land development process.
Provide Geographic Information System (GIS) and mapping services.

**Task 4 - Reporting and Regulatory Compliance:**
The Consultant shall:

a. Prepare annual report summarizing monitoring data and maintenance operations for each year of the contract duration (sample annual reports from prior years are available on the City website).

b. Prepare quarterly and annual reports for submittal to the Regional Water Quality Control Board in accordance with the current NPDES permit requirements.

c. Respond to requests from public agencies for data and provide regulatory consultation and support for compliance with Regional Water Quality Control Board requirements.

**Task 5 - Public Outreach (Homeowner Association Presentation):**
The Consultant shall:

a. Provide annual presentation at community and public meetings on the status of landslide maintenance areas and assessment districts.

b. Disseminate background information and data regarding landslide maintenance areas and assessment districts in response to public inquires.

c. The Consultant shall review and provide technical responses to the public upon direction from the City.

**Task 6 - Emergency Services:**
The Consultant shall:

a. Provide 24-hour, on-call emergency service support for landslide maintenance areas and assessment districts, including but not limited to after hour emergency response and repairs. This work shall be compensated per the cost schedule.

**Task 7 - Project Administration:**
The Consultant shall:

a. Provide project management for landslide maintenance area and assessment district activities.

b. Provide cost estimates for annual budget reports and coordinate landslide maintenance area and assessment district activities with other agencies and City consultants.

c. Prepare plans, specifications, and cost estimates for recommended capital improvement including dewatering wells, hydraugers, piezometers, and inclinometer facilities. Provide project administration and construction management and provide recommendations for future assessment district capital improvements. Recommendations for capital improvements for monthly, annual, 5 year, 10 year, etc.

**Task 8 – Landslide Assessment District (existing facilities evaluation):**

a. The consultant shall evaluate all existing facilities and dewatering equipment in the Big Rock Mesa, Calle Del Barco, and Malibu Road Landslide Assessment
District, update information in inventory records, and provide maintenance and CIP recommendations.

Summary of existing facilities for each maintenance area follows below:

a. **Big Rock Mesa Landslide Assessment District:**
   - 29 standpipes and 16 pneumatic piezometers
   - 22 active dewatering wells
   - 34 horizontal drains (hydraugers)
   - 28 slope inclinometers (max. depth ~400 ft)

b. **Calle Del Barco Landslide Assessment District:**
   - 9 standpipes and 21 pneumatic piezometers
   - 11 active dewatering wells
   - 10 horizontal drains (hydraugers)
   - 12 slope inclinometers
   - 4 crack gauges

c. **Malibu Road Landslide Assessment District:**
   - 15 standpipes
   - 12 active dewatering wells
   - 23 horizontal drains (hydraugers)
   - 5 slope inclinometers
### MALIBU LANDSLIDE MAINTENANCE AND MONITORING FOR BIG ROCK MESA, CALLE DEL BARCO, AND MALIBU ROAD LANDSLIDE ASSESSMENT DISTRICTS

**EFFECTIVE JANUARY 2020 TO DECEMBER 2023**

*(ANNUAL RATE INCREASE OF 3.5% EACH JANUARY)*

### Professional Services:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Basic Rate</th>
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<tbody>
<tr>
<td>Principal</td>
<td>$205/hr</td>
</tr>
<tr>
<td>Senior Project Manager</td>
<td>$180/hr</td>
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<tr>
<td>Senior Project Specialist</td>
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<td>Project Manager</td>
<td>$155/hr</td>
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<tr>
<td>Senior Project Engineer or Geologist</td>
<td>$140/hr</td>
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<tr>
<td>Project Engineer or Geologist</td>
<td>$110/hr</td>
</tr>
<tr>
<td>Staff Engineer or Geologist</td>
<td>$95/hr</td>
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<tr>
<td>Engineer or Geologist Intern</td>
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<tr>
<td>Construction Manager</td>
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<tr>
<td>Construction Observer 3</td>
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<td>Technician Leader or Supervisor</td>
<td>$125/hr</td>
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<tr>
<td>Laboratory Supervisor</td>
<td>$100/hr</td>
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<tr>
<td>Technician</td>
<td>$85/hr</td>
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<tr>
<td>GIS/CAD Designer</td>
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<td>CAD Technician</td>
<td>$80/hr</td>
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<tr>
<td>Administrative Assistant</td>
<td>$75/hr</td>
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</tbody>
</table>

**Note:** Overtime rates for Construction Inspection, Technicians and Office Staff is 1.5 x rates shown. Laboratory tests are quoted on separate schedule or cost plus 10 percent for outside laboratory testing when applicable. Fees for expert witness preparation, testimony, court appearances, or depositions will be billed at the rate of $350 per hour. Rates do not include prevailing wage rates for field services. Prevailing wages will be determined on a project-by-project basis.

### Other Direct Charges:

- Subcontracted services, copying and rented equipment: Cost Plus 10%
- Travel, subsistence, and expenses: Cost Plus 10%
- Vehicle: $80/day
- Inclinometer Probe: $100/day
- Water Level Meter: $25/day
- Temperature, pH, Chlorine Meters: $100/day
- Automobile Mileage: $0.55/mile
MALIBU LANDSLIDE MAINTENANCE AND MONITORING FOR BIG ROCK MESA, CALLE DEL BARCO, AND MALIBU ROAD LANDSLIDE ASSESSMENT DISTRICTS

(...CONTINUED)

Average Estimated Direct Costs for Common Maintenance/Replacement:

*(Subject to vary based on individual facility. Provided rate does not include permitting, traffic control and waste handling. Actual cost estimate to be obtained at time of work.)*

Flow Totalizer Replacement (replace in kind)..............................................................................$1,000/each
Dewatering Well Video Log, Brush & Bail....................................................................................$6,000/ea.
Dewatering Well Pump Replacement..............................................................................................$12,000/ea.
Hydrauger Jet Cleaning (~5,000 linear feet)...................................................................................$45,000/ea.
Dewatering Well Replacement (up to ~500 feet deep)...................................................................$165,000/ea.
Hydrauger Replacement (up to ~1,000 feet long).........................................................................$50,000/ea.
Inclinometer Replacement (up to ~350 feet deep).......................................................................$50,000/ea.
**Labor Category** | **Hourly Rate**
---|---
Technical Professionals | 
Principal | $235 - $280 |
Supervising | $180 - $245 |
Managing | $160 - $190 |
Consulting | $130 - $170 |
Project | $110 - $140 |
Staff. | $95 - $130 |
Other Services | 
GIS/Graphics | $100 - $170 |
Editor/Documents | $115 - $130 |
Administration | $65 - $105 |

The hourly rate for trial preparation and expert witness testimony is 1.5 times the standard billing rate shown above.

**Expenses**
- Mileage: IRS authorized rate/mile plus 10 percent markup
- **Direct expenses and outside services**: Cost plus 10 percent markup
**Labor Hourly Rates Effective July 1, 2019**

*Note: Hourly rates include all payroll taxes, Union fringe benefits and markup.*

<table>
<thead>
<tr>
<th>Union Trade</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreman</td>
<td>105.00</td>
</tr>
<tr>
<td>Operator</td>
<td>103.00</td>
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<td>Teamster</td>
<td>78.00</td>
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<td>Laborer – General</td>
<td>72.00</td>
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<tr>
<td>Laborer – Pipe Fitter</td>
<td>76.00</td>
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**Equipment Rental Rates Effective July 1, 2019**

*Note: Hourly Rental Rates Include Fuel and Maintenance and are subject to 15% Markup 4-hour Minimum on Hourly Equipment*

<table>
<thead>
<tr>
<th>Equipment</th>
<th>Hourly Bare Rental Rate</th>
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</thead>
<tbody>
<tr>
<td>CAT 350L Excavator</td>
<td>240</td>
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<tr>
<td>CAT 321CLCR Excavator</td>
<td>150</td>
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<tr>
<td>CAT 314 Excavator</td>
<td>110</td>
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<tr>
<td>Compaction Wheel for CAT 321</td>
<td>100 per day</td>
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<tr>
<td>CAT 420F2 4x4 Backhoe/Extendahoe Loaders</td>
<td>60</td>
</tr>
<tr>
<td>Compaction Wheel for Backhoes</td>
<td>100 per day</td>
</tr>
<tr>
<td>CAT D8N Dozer</td>
<td>180</td>
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<tr>
<td>CAT D6R XL Dozer</td>
<td>110</td>
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<tr>
<td>J.D. 550J Dozer w/slopeboard</td>
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<tr>
<td>CAT 980F Loader</td>
<td>100</td>
</tr>
<tr>
<td>CAT 966F Loader</td>
<td>100</td>
</tr>
<tr>
<td>J.D. 624K Loader</td>
<td>90</td>
</tr>
<tr>
<td>KAMATSU WA320 Loader</td>
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</tr>
<tr>
<td>CAT 289D Track Loader</td>
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<tr>
<td>CAT 299D2 Track Loader</td>
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<tr>
<td>BOBCAT T-300 Track Loader</td>
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</tr>
<tr>
<td>BOBCAT Breaker Attachment</td>
<td>40</td>
</tr>
<tr>
<td>J.D. 210LE Skiploaders</td>
<td>45</td>
</tr>
<tr>
<td>CAT 815F Compactor</td>
<td>200</td>
</tr>
<tr>
<td>CAT CP433E Compactor</td>
<td>100</td>
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<tr>
<td>Water Trucks (2000 Gal.)</td>
<td>40</td>
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</tbody>
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Move-In Charges Billed at Actual Cost plus 15% markup

**Vehicle Bare Rental Rates - Hourly**

<table>
<thead>
<tr>
<th>Description</th>
<th>Hourly Rate</th>
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</thead>
<tbody>
<tr>
<td>Foreman’s Pickup Truck</td>
<td>25</td>
</tr>
<tr>
<td>1 Ton Crew Truck W/Tools</td>
<td>35</td>
</tr>
<tr>
<td>Flatbed Truck</td>
<td>40</td>
</tr>
<tr>
<td>2-Axle Dump Trucks</td>
<td>60</td>
</tr>
<tr>
<td>3-Axle Dump Trucks</td>
<td>85</td>
</tr>
<tr>
<td>4-Axle Dump Trucks</td>
<td>90</td>
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**Miscellaneous Equipment Rental Rates**

<table>
<thead>
<tr>
<th>Description</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air-Compressor Package</td>
<td>45 Hr.</td>
</tr>
<tr>
<td>Water Test Pump</td>
<td>150 per day</td>
</tr>
<tr>
<td>Vibratory Plate Compactor</td>
<td>100 per day</td>
</tr>
<tr>
<td>Wacker Jumping Jack Compactor</td>
<td>100 per day</td>
</tr>
</tbody>
</table>
**ACORD**

**CERTIFICATE OF LIABILITY INSURANCE**

**DATE (MM/DD/YYYY):** 06/03/2020

**Client#:** 1085772

**PRODUCER**
USI Insurance Services, LLC  
P.O. Box 7050  
Englewood, CO 80155  
800 873-8500

**INSURED**
Yeh & Associates, Inc.  
2000 Clay Street, Suite 200  
Denver, CO 80211

**CERTIFICATE NUMBER:**

<table>
<thead>
<tr>
<th>NO.</th>
<th>LTR</th>
<th>TYPE OF INSURANCE</th>
<th>INSCR. X</th>
<th>POLICY NUMBER</th>
<th>EACH OCCURRENCE</th>
<th>LIMITS</th>
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<tbody>
<tr>
<td>A</td>
<td>X</td>
<td>COMMERCIAL GENERAL LIABILITY</td>
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<td>X OCCUR</td>
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<td>07/11/2019</td>
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<tr>
<td>B</td>
<td></td>
<td>UMBRELLA LIAB EXCESS LIAB</td>
<td>OCCUR</td>
<td>CLAIMS-MADE</td>
<td>93634080</td>
<td>10/01/2019</td>
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</tr>
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<td>C</td>
<td></td>
<td>_workers compensation and employers liability</td>
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<td></td>
<td>642616169</td>
<td>06/13/2019</td>
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<td>professional liability claims made</td>
<td></td>
<td>AEC902981203</td>
<td>06/13/2019</td>
<td>06/13/2020</td>
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</tbody>
</table>

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

As required by written contract or written agreement, the following provisions apply subject to the policy terms, conditions, limitations and exclusions: The Certificate Holder and owner are included as Automatic Additional Insured's for ongoing and completed operations under General Liability and Additional Insureds under Umbrella / Excess Liability but only with respect to liability arising out of the Named Insured work performed on behalf of the certificate holder and owner. The General Liability and Umbrella/Excess (See Attached Descriptions)

**CERTIFICATE HOLDER**
City of Malibu  
Reva Feldman  
23825 Stuart Ranch Road  
Malibu, CA 90265-4861

**CANCELLATION**

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

**AUTHORIZED REPRESENTATIVE**

ACORD 25 (2016/03) 1 of 2 The ACORD name and logo are registered marks of ACORD #S28950120/M28224312

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insurance applies on a primary and non contributory basis. A Blanket Waiver of Subrogation applies for General Liability, Umbrella/Excess Liability and Workers Compensation. The Umbrella / Excess Liability policy provides excess coverage over the General Liability, Automobile Liability and Employers Liability.

Please note that Additional Insured status does not apply to Professional Liability or Workers' Compensation.

Owner - Shan-Tai Yeh excluded from Workers' Compensation Coverage.

RE: Landslide Maintenance and Monitoring for Big Rock Mesa, Called Del Barco and Malibu Road.
Additional Insured Includes: City of Malibu, its officers and employees.
NOTICE: THIS IS A CLAIMS MADE AND REPORTED IN WRITING POLICY. SUBJECT TO ITS
PROVISIONS, COVERAGE APPLIES ONLY TO CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED
DURING A POLICY YEAR AND FIRST REPORTED TO US IN WRITING WITHIN THAT SAME POLICY YEAR,
OR WITHIN ONE HUNDRED AND TWENTY (120) DAYS AFTER THE END OF SUCH POLICY YEAR,
UNLESS AN OPTIONAL EXTENDED REPORTING PERIOD APPLIES. THIS POLICY CONTAINS
PROVISIONS THAT LIMIT THE AMOUNT OF CLAIM EXPENSES THE COMPANY IS RESPONSIBLE TO
PAY IN CONNECTION WITH CLAIMS. THE PAYMENT OF CLAIM EXPENSES WILL REDUCE THE LIMITS
OF LIABILITY STATED IN ITEM 3 OF THE DECLARATIONS.

PLEASE READ THE POLICY CAREFULLY.

The words “we,” “us” and “our” mean the Insurance Company listed in the Declarations Page of this Policy. The words “you”
and “your” mean any person or entity described in the definition of Insured. Words in bold print have special meanings defined
in Section VI. Definitions.

In consideration of the payment of the Policy premium stated in Item 5 of the Declarations, and subject to all the terms, and in
reliance upon the statements made in the application, which either is attached to this Policy or shall be deemed attached to
this Policy by this provision, we agree with you as follows:

I. Insuring Agreements

We will pay up to the Limits of Liability and subject to the Deductible stated in the Declarations all sums that the Insured
becomes legally obligated to pay as Damages and Claim Expenses resulting from a Claim first made against the Insured
during the Policy Year and first reported to us in writing during the same Policy Year, or within 120 days after the end of such
Policy Year, provided that:

A. Architects and Engineers Professional Liability
   1. The Claim arises out of a Wrongful Act in, or Pollution Incident from, the performance of your Professional
      Services;
   2. The Wrongful Act or Pollution Incident took place on or after the Retroactive Date stated in the Declarations and
      before the end of the same Policy Year the Claim was first made; and
   3. Prior to the Knowledge Date stated in the Declarations, none of the Principal Insureds knew or could have
      reasonably expected that any subject Professional Services might give rise to a Claim.

B. Contractor’s Pollution Liability
   1. The Claim arises out of a Pollution Incident from the performance of your Contractor Services;
   2. The Contractor Services took place on or after the Retroactive Date stated in the Declarations and before the end
      of the same Policy Year the Claim was first made; and
   3. Prior to the Knowledge Date stated in the Declarations, none of the Principal Insureds knew or could have
      reasonably expected that any subject Contractor Services might give rise to a Claim.

C. Cyber Liability
   1. The Claim arises out of a Wrongful Act in the performance of your Professional Services and that:
      a. is specifically related to Information Technology Services; or
      b. results in the failure of Information Technology Products to perform the function or serve the purpose
        intended; or
      c. results in a Cyber Security Breach; and
2. The Wrongful Act was committed on or after the Retroactive Date stated in the Declarations and before the end of the same Policy Year the Claim was first made; and

3. Prior to the Knowledge Date stated in the Declarations, none of the Principal Insureds knew or could have reasonably expected that any subject Professional Services might give rise to a Claim.

D. Media and Personal Injury Liability

1. The Claim arises out of a Wrongful Act in the performance of your Professional Services, Media Activities or Information Technology Services that result in:
   a. infringement of copyright, piracy, plagiarism or misappropriation or unauthorized use of the intellectual property of others that is obtained by you under Contract;
   b. infringement of trade dress, domain name, title or slogan, or the dilution or infringement of trademark or servicemark;
   c. negligence regarding the Content of any Media Communication including harm caused through any reliance or failure to rely upon such Content;
   d. misappropriation of trade secret;
   e. defamation, libel, slander, product disparagement, trade libel, or other tort related to disparagement or harm to the reputation or character of any person or organization; but not including slander of title or any other Claim related to real or other tangible personal property;
   f. invasion or interference with the right to privacy or of publicity;
   g. misappropriation of any name or likeness for commercial advantage;
   h. false arrest, detention or imprisonment or malicious prosecution; or
   i. invasion of or interference with any right to private occupancy, including trespass, wrongful entry, eviction or eavesdropping;

2. The Wrongful Act was committed on or after the Retroactive Date stated in the Declarations and before the end of the same Policy Year the Claim was first made; and

3. Prior to the Knowledge Date stated in the Declarations of this Policy, none of the Principal Insureds knew or could have reasonably expected that any subject Professional Services might give rise to a Claim.

II. Territory

A. The coverage afforded by this Policy applies worldwide,

B. We shall not be required to provide any coverage, pay any Claim or provide any other benefit hereunder to the extent that provision of such coverage, payment of such Claim or provision of such other benefit would be in violation of any trade or economic sanctions, laws or regulations of the United States including, but not limited to, those administered by the U.S. Treasury Office of Foreign Assets Control, or of any other jurisdiction with which we are legally obligated to comply.

III. Additional Coverages

All payments made under this section are not subject to the Deductible and are in addition to the Limits of Liability shown in the Declarations. All other Policy Terms and Conditions shall be applicable to these Additional Coverages.

A. Free Claim Prevention Assistance

   If during the Policy Year, you report a Circumstance in accordance with Conditions A., until a Claim related to that Circumstance is made, we will pay all costs or expenses that we incur, or that you incur, with our prior written consent, for purposes of investigating, mitigating or avoiding a Claim.

B. Disciplinary, Regulatory or Administrative Expense Reimbursement

   We shall reimburse you, upon written request, for reasonable legal fees and expenses you incur in responding to any;

   1. Disciplinary Proceeding, both commenced against you and reported to us during the Policy Year, by a regulatory or disciplinary official, board or agency, to investigate charges of professional misconduct in the performance of Professional Services, or

   2. Regulatory or Administrative Action, including, but not limited to, one concerning the Americans with Disabilities Act of 1990, the Federal Fair Housing Act or the Occupational Safety and Health Act, both commenced against you and reported to us during the Policy Year, provided that the action arises out of a Wrongful Act, in the performance of Professional Services, committed or alleged to have been committed by you on or after the Retroactive Date(s) stated in Item 6 of the Declarations.

   3. Regulatory or Administrative actions brought against you by a government agency under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, both commenced against you and reported to us during the Policy Year, provided that the regulatory or administrative actions:

      a. arise out of the performance of Professional Services, committed or alleged to have been committed by you on or after the Retroactive Date(s) stated in Item 6 of the Declarations, and
      b. do not arise out of services performed as a Municipal Advisor as defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.
The maximum we will pay pursuant to this Additional Coverage provision is $50,000 for all such actions commenced against you and reported to us during the Policy Year. We will not pay any other amounts under this provision for such actions, including but not limited to Damages, fines, taxes and penalties.

C. Defendants' Reimbursements
Upon your written request, we will reimburse you up to $400 a day for all Insureds combined, subject to a maximum of $15,000 per Claim, for your actual loss of earnings for your attendance, at our written request, at a trial, hearing, deposition, Mediation or arbitration involving a Claim.

D. Fee Dispute Mitigation Reimbursements
If you attempt to recover a Withheld Fee from a client and:
1. as a result of such collection attempts, the client first makes a Claim during the Policy Period against you for an amount greater than the Withheld Fee, and
2. you provide us with written confirmation from your client, acceptable to us, that they will withdraw their Claim against you, in exchange for your not pursuing your Withheld Fee,
then we will pay 50% of your Withheld Fee, up to a maximum policy aggregate amount of $25,000. You must provide such written confirmation from your client prior to our payment of your Withheld Fee.

E. Peer Review Reimbursement
Upon your written request during the Policy Period, we will reimburse half the cost of a peer review, conducted by a qualified national professional society such as the American Institute of Architects, the American Council of Engineering Companies or a pre-approved Provider designated by us, subject to a maximum of $5,000 per Policy Period for all such programs.

F. Cyber Security Breach Response Reimbursement
Upon your written notification to us during the Policy Period of a Cyber Security Breach, we will engage a qualified firm on your behalf to:
1. investigate the breach;
2. notify any parties affected by the breach;
3. perform credit monitoring service for your clients' individual personal data or your clients' corporate data lost because of the breach; and
4. restore or recreate, if possible, any of your clients' lost Content caused by the breach.
The maximum we will pay pursuant to this Additional Coverage provision is $50,000 per Policy Period.

G. Crisis Management/Public Relations Event
Upon your written request, we shall reimburse you for reasonable costs you incur during the Policy Year for consultation with a public relations firm to respond to or avert negative publicity, or a potential threat to your reputation, arising from a Crisis Management/Public Relations event. A Crisis Management/Public Relations event means the death or departure of a Principal Insured, the arrest or threatened arrest of a Principal Insured arising from your Wrongful Acts, a publication or broadcast identifying an Insured and asserting or suggesting criminal conduct of an Insured, or any other event we agree may have a material adverse effect on the reputation of an Insured.
The maximum we will pay pursuant to this Additional Coverage provision is $30,000 per Policy Period.

IV. Exclusions Applicable to All Insuring Agreements
This Policy does not apply to and we shall not be liable for Damages or Claim Expenses resulting from any Claim or Circumstance that is for, based upon or arising out of:

A. your dishonest, criminal, malicious or fraudulent act or omission; however, this Exclusion shall not apply to our duty to defend any Claim unless or until a final adjudication adverse to you establishes that you committed such dishonest, criminal, malicious or fraudulent, act or omission. This exclusion shall not apply to any Insured that did not commit participate in, or have knowledge of any dishonest, fraudulent, criminal or malicious act or omission.

B. or brought by or on behalf of or with the assistance of, or actual or potential liability to:
1. any Insured, or
2. any person or entity (or its subrogues or assignees):
   a. that wholly or partly owns, operates, manages or controls any Insured,
   b. that any Insured operates, manages, or controls, or
   c. in which any Insured has an ownership interest of greater than 49%.

C. liability assumed under any Contract. This exclusion does not apply to:
1. any liability that you would have in the absence of that Contract,
2. your contractually assumed obligation to reimburse any person or entity for their reasonable costs of defense pursuant to an indemnity or hold harmless provision in your Contract for Professional Services, as long as such obligation is limited in the Contract to the portion of such costs equal to the percentage of your liability as ultimately determined after adjudication in a court of competent jurisdiction to be caused by your Wrongful Act or Pollution Incident using principles of comparative fault. This exception to exclusion C shall not apply to any obligation to provide a defense prior to the ultimate determination of fault.
D. actual construction performed by any insured, its agent, or subcontractor, including, but not limited to, performing construction, erection, fabrication, installation, assembly, manufacture, demolition, dismantling, drilling, excavation, dredging, remediation, or supplying any materials, parts, or equipment, except for supplying furnishings as a part of interior design services.

This exclusion does not apply to drilling, excavation or other sampling or testing procedures necessary to perform your Professional Services. Furthermore, this exclusion does not apply to Insuring Agreement B, Contractor’s Pollution Liability.

E. your ownership, rental, lease, maintenance, operation, use, repair, voluntary or involuntary sale, transfer, exchange, gift, abandonment or condemnation of, or Bodily Injury or Property Damage caused by, any real or tangible personal property including, without limitation, automobiles, aircraft, drone, watercraft and other kinds of conveyances.

This exclusion does not apply to your Professional Services that incorporate information obtained from the use of a Drone.

F. the design or manufacture of any goods or products for multiple sale or mass distribution that are sold or supplied by you or by others under license from you.

G. the actual, alleged, or threatened exposure to nuclear source material, nuclear by-product materials, nuclear waste activities, nuclear incident, or extraordinary nuclear occurrence, as defined in the Atomic Energy Act of 1954 or as amended.

H. any pension, healthcare, welfare, profit sharing, mutual or investment plans, funds, trusts and other type of employee benefit; any employment obligations, decisions, practices or policies as an employer, including but not limited to, any Claim under workers compensation, unemployment compensation, employee benefits, or disability benefits; or any violation of the Employee Retirement Income Security Act of 1974 or the Patient Protection and Affordable Care Act of 2010 or any amendment to these Acts or any similar local, state, federal or foreign equivalent law or regulation.

I. actual or alleged discrimination, humiliation, harassment or misconduct, including but not limited to any conduct based on an individual’s race, religion, color, gender, sexual preference or orientation, national origin, age, disability or marital status. This exclusion does not apply to an otherwise covered Claim brought under Title II of the Americans with Disabilities Act or the Fair Housing Act, or any similar state or local law or ordinance.

V. Exclusions – Applicable to Insuring Agreements C & D Only

In addition to the Exclusions Applicable to All Insuring Agreements (Section IV), Insuring Agreements C and D also do not apply to and we shall not be liable for Damages or Claim Expenses resulting from any Claim or Circumstance that is for, based upon or arising out of:

A. Bodily Injury or Property Damage.

B. inaccurate, inadequate or incomplete description of the price of goods, products or services; cost guarantees, cost representations or Contract price estimates of probable costs or cost estimates actually or allegedly being exceeded; the failure of goods, products or services to conform with any represented quality or performance contained in any Advertising; or any actual or alleged gambling, contest, lottery, promotional game or other game of chance.

C. any actual or alleged obligation to make licensing fee or royalty payments, including but not limited to the amount or timeliness of such payments.

D. any costs or expenses incurred or to be incurred for:

1. the reprinting, recall, removal or disposal of any Media Material, including any media or products containing such Media Material; or

2. the withdrawal, recall, inspection, repair, replacement, reproduction, removal or disposal of:
   a. Information Technology Products, including any products or other property of others that incorporate Information Technology Products;
   b. work product resulting from or incorporating the result of Information Technology Products; or
   c. any products or other property on which Information Technology Services are performed;

   provided that this exclusion shall not apply to Claims for the resulting loss of use for the Media Material or Information Technology Products, or loss of use of the work product resulting from such Information Technology Services.

E. any spike in, surge of, decrease in, disruption of, fluctuation in or failure of any infrastructure service or utility provided by a third party, including but limited to power, water, gas, communications or connectivity; or fire, flood, earthquake, volcanic eruption, explosion, lightning, wind, hail, tidal wave, landslide, act of God or other physical or force majeure event.

F. any actual or alleged antitrust violation, restraint of trade, unfair competition, violation of the Sherman Antitrust Act, the Clayton Act, the Robinson-Patman Act, as amended or any similar law or legislation or any state, province or other jurisdiction, false, deceptive or unfair trade practices, violation of consumer protection laws or false, deceptive or misleading Advertising.

G. any action brought by or on behalf of the Federal Trade Commission, the Federal Communications Commission or any similar government entity, in such entity’s regulatory or official capacity.

H. any actual or alleged infringement or copyright or misappropriation of trade secret arising out of or related to Information Technology Products or Information Technology Services.

BDP0417001
I. the existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment, or that affects the value, marketability, or condition of use of any property.

J. the delay in delivery or performance, or failure to deliver or perform, at or within an agreed upon period of time.

K. invasion of or interference with any right to private occupancy or privacy, including without limitation, trespassing or cavedropping, arising from the use of a Drone.

VI. Definitions

A. Advertising means material that promotes your products, services or business.

B. Bodily Injury means physical injury, disease, sickness or death of any person, including any mental anguish, mental injury, emotional distress, pain and suffering or shock resulting therefrom.

C. Circumstance means an event that reasonably would be expected to result in a Claim being made.

D. Claim means any notification received by you demanding compensatory money Damages or compensatory, corrective or remedial services. Two or more Claims for or arising out of the same or related Wrongful Act(s) shall be considered a single Claim for all purposes under this Policy.

E. Claim Expenses mean:
   1. Reasonable and necessary fees charged by an attorney(s) designated by us, or designated by you with our prior written consent, to defend a Claim; and
   2. All other fees, costs and charges, resulting from the investigation, adjustment, defense and appeal of a Claim, if incurred by us, or by you with our prior written consent, including premiums on appeal bonds, provided that we shall not be obligated to apply for or furnish such appeal bonds.

Our determination of Claim Expenses shall be conclusive. Claim Expenses do not include your or our salary charges, wages or expenses of partners, principals, officers, directors, members or employees.

F. Clean-Up Costs means costs, charges and expenses incurred in the investigation, removal or neutralization of a Pollution Incident, provided that such Pollution Incident arises out of the performance of Professional Services by you or on your behalf.

G. Content means data, digital code, images, drawings, scents, sounds, tastes, texts or textures.

H. Contract means any agreement, whether express or implied, in fact or in law, written or oral, including without limitation, hold harmless or indemnity clauses, warranties, guarantees, certifications or penalty clauses.

I. Contractor Services means drilling, excavation, or other sampling or testing procedures or construction, remediation or operational activities performed by you, your agent, or your subcontractor, necessary to perform your Professional Services.

J. Cyber Security Breach means your computer network security activities that result in:
   1. the failure to prevent the introduction or transmission of a computer virus or any other malicious code, but only if such computer virus or malicious code affects the data, software, firmware, systems or networks of your clients;
   2. the failure to provide your clients with access to your website, or your computer or communications network, when your clients have authorized use of your website, or your computer or communications network;
   3. failure to prevent unauthorized access to, or use of, data, software, firmware, systems or networks containing private or confidential information of your client;
   4. the destruction, deletion or corruption of your client’s electronic data; or
   5. failure to prevent the theft, unauthorized or illegal disclosure or loss of your client’s information listed below:
      a. an individual, natural person’s private Content, or
      b. commercial confidential information that resides in or on your hardware devices or data systems.

K. Damages means compensatory monetary amounts for a covered Claim that you become legally liable including judgments (inclusive of any pre- or post-judgment interest), awards, or settlements agreed with our prior approval. Damages include fines, sanctions, taxes, penalties, punitive or exemplary damages and the multiple portion of any multiplied damage award unless any are unsuitable pursuant to applicable law. For purposes of Insuring Agreement B, Damages include Emergency Expense and Clean-Up Costs. Damages do not include any return, withdrawal or reduction of professional fees, profits or other charges.

L. Drone means an Unmanned Aircraft System as defined by the Federal Aviation Administration.

M. Emergency Expense means reasonable and necessary expenses, incurred by you, on an emergency basis, within five days of a Pollution Incident, to contain, control, mitigate or rectify such Pollution Incident resulting from your Contractor Services that is an imminent and substantial endangerment to public health, safety or welfare, or the environment, where the absence of such emergency action being undertaken without delay, further harm to third parties or the environment is imminent.

N. Information Technology Products means a computer or telecommunication hardware or software product or other electronic product that is created, developed or manufactured by you for others including software updates, service packs and other maintenance releases for such products.

O. Information Technology Services means:
1. consulting on, design of, development of, analysis of, integration of, interface of, modification of and programming of software, hardware, networks, telecommunication systems and electronic or digital devices performed by you for your clients.
2. installation of, training in the use of, support of, servicing of, maintenance of, repair of your Information Technology Products:
3. marketing of, selling of, licensing of and distribution of your Information Technology Products:
4. storage of, warehousing of, mining of and processing of data by you for your clients:
5. managing, operating, administering and hosting your Information Technology Products for your clients; or
6. activities performed on your website(s):
but shall not mean Information Technology Products.

P. Insured means the following:
1. The Named Insured designated in Item 1 of the Declarations, or by Endorsement to this Policy;
2. Any Named Insured with respect to your participation in a legal entity, including a joint venture, but solely for your legal liability for the performance of Professional Services by that legal entity. Insured does not include the legal entity or any other entity that is part of the legal entity:
3. Any person who is, was, or hereafter becomes a partner, principal, officer, director, member, or employee of the Named Insured, but only for Professional Services performed in such capacity on behalf of the Named Insured;
4. A retired partner, principal, officer, director, member or employee of the Named Insured, while acting within the scope of their duties as a consultant for the Named Insured;
5. Any temporary or leased personnel, but only for Professional Services performed while acting under the direct supervision of and on behalf of the Named Insured;
6. Your estate, heirs, executors, administrators, and legal representatives, in the event of your death, disability, incapacity, insolvency, or bankruptcy, but only to the extent you would have otherwise been provided coverage under this Policy;
7. Your lawful spouse or legally recognized domestic partner solely by reason of their legal status, or their ownership interest in property or assets that are sought as recovery. This shall not apply to the extent a Claim alleges any Wrongful Act by such spouse or legally recognized domestic partner;
8. With respect to Insuring Agreement B – Contractor's Pollution Liability, any person or organization that you are required to in a written agreement, executed prior to the Claim, to include as an Insured under this Policy but solely to the extent that such person's or organization's liability arises out of your performance of Contractors Services:
9. Your newly formed or acquired entities, other than a partnership, joint venture or limited liability company, in which you maintain majority interest, provided there is no other similar insurance available to that entity, however:
   a. Coverage is only afforded for ninety (90) days after you form or acquire the entity or the end of the Policy Year, whichever is earlier; and
   b. Coverage does not apply to Professional Services provided prior to the date the firm was formed or acquired.

Q. Knowledge Date means effective date of the first Architects, Engineers & Consultants Policy issued by us to you and continuously renewed and maintained in effect to the inception of this Policy Period.
R. Media Activities means Media Communications and/or the gathering, collection or recording of Media Material for inclusion in any Media Communication in the ordinary course of your business.
S. Media Communications means the display, broadcast, dissemination, distribution or release of Media Material to the public by you.
T. Media Material means information in the form of words, sounds, numbers, images or graphics in electronic, print or broadcast form, including Advertising, but does not mean computer software or Content.
U. Mediation means a non-binding process in which a neutral panel or individual assists the parties in reaching their own settlement.
V. Policy Period means the period specified in Item 2 of the Declarations or any shorter period that may occur as a result of a cancellation or termination of this Policy.
W. Policy Year means each consecutive twelve (12) months beginning on the effective date of the Policy Period shown in the Declarations. However, if a Policy Year within a Policy Period is modified by Endorsement, then any period fewer than twelve (12) months will be deemed a separate Policy Year.
X. Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalies, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed. Pollutants does not mean heat, smoke, vapor, soot or fumes from a hostile fire or explosion.
Y. Pollution Incident means the actual or alleged discharge, dispersal, seepage, migration, release or escape of Pollutants into or upon land, the atmosphere or any watercourse or body of water, that results in Bodily Injury or Property Damage. It does not include the transportation, shipment, delivery, storage or disposal of Pollutants, contaminants, waste, products or materials.
Z. Principal Insureds means your directors, officers, principals, partners or insurance managers.
AA. Professional Services means those services that you or others on your behalf perform for others in your practice as an architect, engineer, land surveyor, interior designer, landscape architect, construction manager, scientist, environmental or technical consultant or in any other way defined by endorsement to this Policy. Professional Services do not include those services provided in the capacity of a Municipal Advisor, as defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, including without limitation financial advice specific to the procurement of any financing or monies for payment of any project.

BB. Property Damage means physical injury to or destruction of tangible property or loss of use thereof.

CC. Withheld Fee means any contractually due fee that your client refuses to pay you for more than 6 months.

DD. Wrongful Act means any actual or alleged act, error or omission by you or by any entity or person for whom you are legally liable. Related Wrongful Act(s) are those that arise out of, are based on, logically or causally relate to or are in consequence of the same or related Professional Services or Contractor Services.

VII. Conditions

A. Reporting of Circumstances That May Give Rise to a Claim

If, during the Policy Year, you become aware of a Circumstance, and, during the same Policy Year, provide us with written notice of the Circumstance, containing:

1. When and how you first became aware of the Circumstance;
2. The reasons for anticipating such a Claim;
3. The nature and dates of the alleged Circumstance;
4. Any alleged injuries or Damages sustained; and
5. The names of potential claimants, if available.

then any Claim subsequently made shall be deemed to have been made and reported on the date we received the written report of the Circumstance. However, this section shall not apply to Section III. F. Cyber Security Breach Response Reimbursement.

B. Reporting a Claim

In the event of a Claim, you shall:

1. Promptly report the Claim to us in writing at the address stated in the Declarations;
2. Provide sufficient information to identify the claimant;
3. Immediately forward to us every demand, notice, summons or other process including institution of alternative dispute resolution proceedings received; and
4. Provide reasonably attainable information with respect to the time, place and Circumstances of the Claim and the names and addresses of available witnesses.

C. Defense, Cooperation and Settlement

1. We have the right and duty to defend any Claim made against you to which this insurance applies. We will pay Claim Expenses when we have such a duty. When a Claim made against you is a civil proceeding, defense counsel may be designated by us, or, at our option, designated by you with our prior written consent and subject to our guidelines. All Insureds shall cooperate with us or our designee in the defense or investigation of a Circumstance or Claim, including but not limited to assisting us in the conduct of suits or other proceedings, settlement negotiations, and the enforcement of any right of contribution or indemnity against another who may be liable to you. You shall attend hearings, depositions and trials and assist in securing evidence and obtaining the attendance of witnesses.

2. You shall not, except at your own cost, make any payment, admit any liability, settle any Claim, assume any obligation or incur any expense without our prior written consent.

3. You shall obtain our written consent before exercising any right, assuming any obligation, or making any agreement, with respect to any dispute resolution mechanism or process, including but not limited to rejecting or demanding arbitration.

4. We shall not settle any Claim without our written consent. If, however, consent to settlement recommended by us is withheld, and you elect to continue to contest the Claim, then our liability for Damages shall not exceed the amount for which the Claim could have been settled. We shall only be liable for 50% of Claim Expenses in excess of the Deductible incurred after the date the consent was withheld. You shall be liable for the remaining 50% of Claim Expenses in excess of the Deductible incurred after that date.

D. When a Claim is First Made

A Claim shall be considered to have been first made at the earliest time that you are aware of it. Two or more Claims for or arising out of the same or related Wrongful Act(s) shall be considered first made within the Policy Year in which the earliest of such Claims were first made, or deemed to be made pursuant to CONDITIONS A of this Policy.

E. Limits of Liability

1. The Limits of Liability shown in Item 3 of the Declarations and described below, are the most we will pay regardless of the number of Insureds, Claims, individuals or entities making Claims.
2. The each Claim limit shown in Item 3A of the Declarations is the most we will pay for the sum of all Damages and Claim Expenses arising out of any single Claim. Two or more Claims considered a single Claim shall collectively be subject to the each Claim limit of liability shown in Item 3A of the Declarations.

3. The each Claim limit is the most we will pay for the sum of all Damages and Claim Expenses arising out of any single Claim regardless of how many Insuring Agreements may apply to such Claim.

4. The Policy Year Aggregate limit shown in Item 3B of the Declarations is the most we will pay for the sum of all Damages and Claim Expenses for all Claims made and reported during each Policy Year.

5. The payment of Damages and Claim Expenses will reduce the each Claim limit.

F. Deductible

You must pay the Deductible for Claim Expenses and Damages covered by this Policy before we are obligated to make any payment under the each Claim limit. The Deductible must be paid from your own account, and payments by other parties or insurers on your behalf shall not satisfy the Deductible. We have the right to determine the reasonableness of Claim Expenses that qualify to satisfy the Deductible. The Deductible for each Claim is set forth in Item 4A of the Declarations. The Policy Year Aggregate Deductible shown in Item 4B of the Declarations is the most the Named Insured must pay as a Deductible for the sum of all Claims made and reported during each Policy Year.

G. Deductible Credits

1. Mediation Credit: Your Deductible obligation may be reduced by 50%, subject to a maximum reduction of $15,000 if you agree with our decision to use Mediation and the Claim is fully and finally resolved by such Mediation.

2. Risk Management Credit: Your Deductible obligation may be reduced by 50%, subject to a maximum reduction of $25,000 if prior to the report date of a Claim, there is a signed, written and enforceable agreement for the Professional Services involved in the Claim, and it includes a clause limiting your liability to $250,000 or less.

3. First Claim Deductible Credit: If the first Claim you ever report to us is made against you:
   a. Greater than 24 months after the Knowledge Date shown on the Policy Declarations, then your Deductible obligation for that Claim may be reduced by 25%, subject to a maximum reduction of $40,000; or
   b. Greater than 36 months after the Knowledge Date shown on the Policy Declarations, then your Deductible obligation for that Claim may be reduced by 50%, subject to a maximum reduction of $40,000.

If more than one Deductible Credit applies, your Deductible obligation will be reduced by 50%, subject to a maximum reduction of $50,000.

H. Notice of Cancellation and Nonrenewal

This Policy may be canceled by the Named Insured identified in the Declarations, by surrender of the Policy to us or our authorized representative or by giving us written notice stating when thereafter, such cancellation shall be effective. We will not cancel this Policy except for nonpayment of premium, fraud or material misrepresentation in procuring this insurance or in connection with any Claim, or changes in law affecting this Policy. If we cancel this Policy, we will mail or deliver to the first Named Insured, on behalf of all Insurees, written notice of cancellation. We will provide you at least ten (10) days notice before the effective date of cancellation if we cancel for nonpayment of premium. If we cancel for any other reason, we will provide at least sixty (60) days notice before the effective date of cancellation.

If this Policy is canceled, we will send the first Named Insured any premium refund due. The refund will be pro rata. The cancellation will be effective even if we have not made or offered a refund.

We will give you written notice sixty (60) days prior to the expiration of this Policy if we do not intend to renew this insurance subject to any state requirements. The notice will include our reason for nonrenewal. Proof of mailing will be sufficient proof of notice.

I. Other Insurance

If there is other collectible insurance, including but not limited to other professional liability insurance or project specific insurance, that applies to a Claim covered by this Policy, the other insurance shall be primary and this Policy shall be excess over the other insurance, unless the other insurance is written specifically excess of this Policy. This Policy will then apply to the amount of the Claim that exceeds the available limits of liability and any deductibles or retention amounts of the other insurance, as well as the Deductible under this Policy. If such other insurance has a duty to defend a Claim or assumes the defense of a Claim, this Policy shall not be obligated to defend that Claim.

J. Subrogation

In the event of any payment under this Policy, we shall be subrogated to all of your rights of recovery against any person or organization. You must do everything reasonably necessary to secure such rights and must do nothing after a Claim is made to jeopardize them. We hereby waive our subrogation rights against a claimant of yours to the extent that you had, prior to a Claim or Circumstance stated in the written agreement to waive such rights. Any recovery shall first be paid to us up to the extent of any Damages or Claim Expenses paid by us and the balance shall be paid to you.

K. First Named Insured as Sole Agent

The first Named Insured in Item 1 of the Declarations will be the sole agent and will act on behalf of all Insureds for the payment or return of premium, receipt and acceptance of any endorsements, notices or provisions of this Policy, giving or receiving notice of cancellation or nonrenewal, the payment of any Deductibles, and to exercise the rights provided in Section J Extended Reporting Period Option.

L. Alteration and Assignment
M. Change in Controlling Interest
   If, during the Policy Period:
   1. a Named Insured merges into or consolidates with another entity such that the Named Insured is not the surviving entity;
   2. another person or entity acquires the Named Insured;
   3. another person or entity acquires a controlling interest in the Named Insured;
   4. there is a divestiture or sale of more than fifty percent of a Named Insured's assets and/or liabilities,
   then the coverage under this Policy will continue for the Named Insured, but only for Wrongful Acts that happen before the date of such event described above. This will apply unless you notify us within thirty (30) days of such event and we issue an endorsement stating otherwise.

N. Bankruptcy or Insolvency
   You or your estate's bankruptcy or insolvency will not relieve us of our obligations under this Policy.

O. Legal Action Against Us
   No individual or entity has a right under this Policy to join us as a party to any action seeking Damages from you. No action may be brought against us unless you have fully complied with all the terms of this Policy.

P. Liberalization
   If we file with the appropriate regulator, general revisions to the terms and conditions of the Policy form to provide more coverage without an additional premium charge, then your policy will automatically provide this additional coverage as of the date the filed revision is effective in the state shown in the mailing address of the Declarations.

Q. Extended Reporting Period
   At expiration or termination of your policy, you have an automatic one hundred and twenty (120) day period to report all Claims first made against you during the Policy Year. Policy termination includes cancellation, non-renewal, expiration, or reduction in coverage.

   You may elect one Optional Extended Reporting Period subject to the following provisions:
   1. You must elect an Optional Extended Reporting Period in writing within thirty (30) days of the termination of this Policy and pay the additional premium at that time. Upon electing this option, the premium is fully earned by us and the Optional Extended Reporting Period cannot be cancelled. You are not eligible for this option if you have obtained other insurance to cover the Claims that would otherwise be covered by an Optional Extended Reporting Period.
   2. Coverage afforded under an Optional Extended Reporting Period will apply to Claims resulting from a Wrongful Act committed on or after the Retroactive Date stated in the Declarations and before the expiration or termination of the Policy, provided the Claim is made against you and reported to us in writing during the Optional Extended Reporting Period.
   3. The aggregate limit applicable to an Optional Extended Reporting Period shall be the remaining aggregate limit of the terminated Policy.
   4. The additional premium for an Optional Extended Reporting Period will be 100% of the expiring annual premium for a one (1) year period, 150% of the expiring annual premium for a two (2) year period, and 185% of the expiring annual premium for a three (3) year period.
   5. An Endorsement will be issued showing the term of the Optional Extended Reporting Period and the amount of premium.

In witness whereof, the Insurance Company has caused this Policy to be executed and attested by signatures of its President and Secretary.
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It is understood and agreed that:

If you have agreed under written contract to provide notice of cancellation to a party to whom the Agent of Record has issued a Certificate of Insurance, and if we cancel a policy term described on that Certificate of Insurance for any reason other than nonpayment of premium, then notice of cancellation will be provided to such Certificate Holders at least 30 days in advance of the date cancellation is effective.

If notice is mailed, then proof of mailing to the last known mailing address of the Certificate Holder on file with the Agent of Record will be sufficient to prove notice.

Any failure by us to notify such persons or organizations will not extend or invalidate such cancellation, or impose any liability or obligation upon us or the Agent of Record.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.
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We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

XTEND ENDORSEMENT FOR ARCHITECTS, ENGINEERS AND SURVEYORS

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

A. Non-Owned Watercraft – 75 Feet Long Or Less
B. Who Is An Insured – Unnamed Subsidiaries
C. Who Is An Insured – Retired Partners, Members, Directors And Employees
D. Who Is An Insured – Employees And Volunteer Workers – Bodily Injury To Co-Employees, Co-Volunteer Workers And Retired Partners, Members, Directors And Employees
E. Who Is An Insured – Newly Acquired Or Formed Limited Liability Companies
F. Blanket Additional Insured – Controlling Interest
G. Blanket Additional Insured – Mortgagees, Assignees, Successors Or Receivers
H. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Premises
I. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations
J. Incidental Medical Malpractice
K. Medical Payments – Increased Limit
L. Amendment Of Excess Insurance Condition – Professional Liability
M. Blanket Waiver Of Subrogation – When Required By Written Contract Or Agreement
N. Contractual Liability – Railroads

PROVISIONS

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

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

(2) A watercraft you do not own that is:
(a) 75 feet long or less; and
(b) Not being used to carry any person or property for a charge;

2. The following replaces Paragraph 2.e. of SECTION II – WHO IS AN INSURED:
e. Any person or organization that, with your express or implied consent, either uses or is responsible for the use of a watercraft that you do not own that is:
(1) 75 feet long or less; and
(2) Not being used to carry any person or property for a charge;

B. WHO IS AN INSURED – UNNAMED SUBSIDIARIES

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

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:
a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and
COMMERCIAL GENERAL LIABILITY

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

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

a. Before you maintained an ownership interest of more than 50% in such subsidiary; or

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

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

a. A limited liability company;

b. An organization other than a partnership, joint venture or limited liability company; or

c. A trust;

as indicated in its name or the documents that govern its structure.

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

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

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

(1) "Bodily injury":

(a) To you, to your current partners or members (if you are a partnership or joint venture), to your current members (if you are a limited liability company) or to your current directors;

(b) To the spouse, child, parent, brother or sister of that current partner, member or director as a consequence of Paragraph (1)(a) above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or

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

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

(2) "Personal injury":

(a) To you, to your current or retired partners or members (if you are a partnership or joint venture), to your current or retired members (if you are a limited liability company), to your other current or retired directors or "employees" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that current or retired partner, member, director, "employee" or "volunteer worker" as a consequence of Paragraph (2)(a) above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (2)(a) or (b) above; or

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

(3) "Property damage" to property:

(a) Owned, occupied or used by; or

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

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

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

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

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

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

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

3. Any organization you newly acquire or form, other than a partnership or joint venture, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

   a. Coverage under this provision is afforded only:
      (1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or
      (2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it;

   b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

   c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

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

   a. A limited liability company;
   b. An organization other than a partnership, joint venture or limited liability company; or
   c. A trust;

as indicated in its name or the documents that govern its structure.

F. BLANKET ADDITIONAL INSURED – CONTROLLING INTEREST

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

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

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

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

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

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

G. BLANKET ADDITIONAL INSURED – MORTGAGEES, Assignees, Successors OR RECEIVERS

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

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

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

subsequent to the signing of that contract or agreement; and

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

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

a. The limits of insurance provided to such mortgagee, assignee, successor or receiver will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.

b. The insurance provided to such person or organization does not apply to:

(1) Any "bodily injury" or "property damage" that occurs, or any "personal and advertising injury" caused by an offense that is committed, after such contract or agreement is no longer in effect; or

(2) Any "bodily injury", "property damage" or "personal and advertising injury" arising out of any structural alterations, new construction or demolition operations performed by or on behalf of such mortgagee, assignee, successor or receiver.

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

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

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

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

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

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

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

a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity;

b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

J. INCIDENTAL MEDICAL MALPRACTICE

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

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

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

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

(a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician, paramedic, athletic trainer, audiologist, dietician, nutritionist,
occupational therapist or occupational therapy assistant, physical therapist or speech-language pathologist; or

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

3. The following replaces the last sentence of Paragraph 5. of SECTION III – LIMITS OF INSURANCE:
   For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

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

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

5. The following is added to the DEFINITIONS Section:

"Incidental medical services" means:

a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or

b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

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

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

K. MEDICAL PAYMENTS – INCREASED LIMIT
   The following replaces Paragraph 7. of SECTION III – LIMITS OF INSURANCE:

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

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

L. AMENDMENT OF EXCESS INSURANCE CONDITION – PROFESSIONAL LIABILITY
   The following is added to Paragraph 4.b., Excess Insurance, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

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

M. BLANKET WAIVER OF SUBROGATION – WHEN REQUIRED BY WRITTEN CONTRACT OR AGREEMENT
   The following is added to Paragraph 8., Transfer Of Rights Of Recovery Against Others To Us, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

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

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

   subsequent to the signing of that contract or agreement.
N. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph c. of the definition of "insured contract" in the DEFINITIONS Section:
   c. Any easement or license agreement;

2. Paragraph f.(1) of the definition of "insured contract" in the DEFINITIONS Section is deleted.
GENERAL PURPOSE ENDORSEMENT

OFFICE PAC

POLICY NUMBER: 680008N373022

ISSUE DATE:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CG2037 (07-04) - ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

NAMES OF ADDITIONAL INSURED PERSON(S) OR ORGANIZATION(S):
Any person or organization that you agree in a written contract to include as an additional insured on this Coverage Part for "bodily injury" or "property damage" included in the products-completed operations hazard, provided that such contract was signed and executed by you before, and is in effect when, the "bodily injury or "property damage" occurs.

LOCATION AND DESCRIPTION OF COMPLETED OPERATIONS:
Any project to which a written contract with the Additional Insured Person(s) or Organization(s) in the Schedule applies.

(INFORMATION REQUIRED TO COMPLETE THIS SCHEDULE, IF NOT SHOWN ABOVE, WILL BE SHOWN IN THE DECLARATIONS.)

A. SECTION II - WHO IS AN INSURED IS AMENDED TO INCLUDE AS AN ADDITIONAL INSURED THE PERSON(S) OR ORGANIZATION(S) SHOWN IN THE SCHEDULE, BUT ONLY WITH RESPECT TO LIABILITY FOR "BODILY INJURY", "PROPERTY DAMAGE" CAUSED, IN WHOLE OR IN PART, BY "YOUR WORK" AT THE LOCATION DESIGNATED AND DESCRIBED IN THE SCHEDULE OF THIS ENDORSEMENT PERFORMED FOR THAT ADDITIONAL INSURED AND INCLUDED IN THE "PRODUCTS-COMPLETED OPERATIONS HAZARD".

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This endorsement modifies insurance provided under the following:

LOCATION OF COVERED OPERATIONS:
Any project to which a written contract with the Additional Insured Person(s) or Organization(s) in the Schedule applies.

(INFORMATION REQUIRED TO COMPLETE THIS SCHEDULE, IF NOT SHOWN ABOVE, WILL BE SHOWN IN THE DECLARATIONS.)

A. SECTION II - WHO IS AN INSURED IS AMENDED TO INCLUDE AS AN ADDITIONAL INSURED THE PERSON(S) OR ORGANIZATION(S) SHOWN IN THE SCHEDULE, BUT ONLY WITH RESPECT TO LIABILITY FOR "BODILY INJURY", "PROPERTY DAMAGE", "PERSONAL INJURY" OR "ADVERTISING INJURY" CAUSED, IN WHOLE OR IN PART, BY:
1. YOUR ACTS OR OMISSIONS; OR
2. THE ACTS OR OMISSIONS OF THOSE ACTING ON YOUR BEHALF IN THE PERFORMANCE OF YOUR ONGOING OPERATIONS FOR THE ADDITIONAL INSURED(S) AT THE LOCATION(S) DESIGNATED ABOVE.
B. WITH RESPECT TO THE INSURANCE AFFORDED TO THESE ADDITIONAL INSURED, THE FOLLOWING ADDITIONAL EXCLUSIONS APPLY:
This insurance does not apply to "bodily injury" or "property damage" occurring, or "personal injury" or "advertising injury" arising out of an
offense committed, after:

1. ALL WORK, INCLUDING MATERIALS, PARTS OR EQUIPMENT FURNISHED IN CONNECTION WITH SUCH WORK, ON THE PROJECT (OTHER THAN SERVICE, MAINTENANCE OR REPAIRS) TO BE PERFORMED BY OR ON BEHALF OF THE ADDITIONAL INSURED(S) AT THE LOCATION OF THE COVERED OPERATIONS HAS BEEN COMPLETED;

2. THAT PORTION OF "YOUR WORK" OUT OF WHICH THE INJURY OR DAMAGE ARISES HAS BEEN PUT TO ITS INTENDED USE BY ANY PERSON OR ORGANIZATION OTHER THAN ANOTHER CONTRACTOR OR SUBCONTRACTOR ENGAGED IN PERFORMING OPERATIONS FOR A PRINCIPAL AS A PART OF THE SAME PROJECT.

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This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is added to Paragraph 4. a., Primary Insurance., of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:
However, if you specifically agree in a written contractor agreement that the insurance afforded to an 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 that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance, provided that:

(1) The "bodily injury" or "property damage" for which coverage is sought is caused by an "occurrence" that takes place; and

(2) The "personal injury" or "advertising injury" for which coverage is sought arises out of an offense that is committed; subsequent to the signing and execution of that contract or agreement by you.

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