

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is dated March 20, 2019, ("Effective Date") and is between the City of Manhattan Beach, a California municipal corporation ("City") and Lance, Soll & Lunghard, LLP, a California limited partnership ("Consultant"). City and Consultant are sometimes referred to herein as the "Parties", and individually as a "Party".

### RECITALS

A. City issued Request for Proposals No.1195-19 on November 8, 2018, titled "Professional Audit Services". Consultant submitted a proposal dated December 10, 2018 in response to the RFP.

A. Consultant represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

B. City desires to retain Consultant as an independent contractor and Consultant desires to serve City to perform these services in accordance with the terms and conditions of this Agreement.

The Parties therefore agree as follows:

#### 1. **Consultant's Services.**

A. Scope of Services. Consultant shall perform the services described in the Scope of Services (the "Services") for financial auditing services for fiscal years ending June 30, 2019, 2020, and 2021, with a two year renewal option for fiscal years ending June 30, 2022 and 2023 attached as **Exhibit A**. Attached as Exhibit C is the scope of service in RFP No. 1195-19. City may request, in writing, changes in the Scope of Services to be performed. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.

B. Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the "City Representative"). For the purposes of this Agreement, the Consultant Representative shall be Richard Kikuchi, Partner (the "Consultant Representative"). The Consultant Representative shall directly manage Consultant's Services under this Agreement. Consultant shall not change the Consultant Representative without City's prior written consent.

C. Time for Performance. Consultant shall commence the Services on the Effective Date and shall perform all Services by the deadline established by the City Representative or, if no deadline is established, with reasonable diligence.

D. Standard of Performance. Consultant shall perform all Services under this Agreement in accordance with the standard of care generally exercised by like professionals under similar circumstances and in a manner reasonably satisfactory to City.

E. Personnel. Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such Services.

F. Compliance with Laws. Consultant shall comply with all applicable federal, state and local laws, ordinances, codes, regulations and requirements.

G. Permits and Licenses. Consultant shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of Services under this Agreement, including a business license.

**2. Term of Agreement.** The term of this Agreement shall be from the Effective Date through March 20, 2019, unless sooner terminated as provided in Section 12 of this Agreement or extended.

### **3. Compensation.**

A. Compensation. As full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in the Approved Fee Schedule attached hereto as **Exhibit B**. In no event shall Consultant be paid more than \$170,070.00 (the "Maximum Compensation") for such Services.

B. Expenses. City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit B**.

C. Unauthorized Services and Expenses. City will not pay for any services not specified in the Scope of Services, unless the City Council or the City Representative, if applicable, and the Consultant Representative authorize such services in writing prior to Consultant's performance of those services or incurrence of additional expenses. Any additional services or expenses authorized by the City Council, or (where authorized) the City Manager shall be compensated at the rates set forth in **Exhibit B**, or, if not specified, at a rate mutually agreed to by the Parties. City shall make payment for additional services and expenses in accordance with Section 4 of this Agreement.

### **4. Method of Payment.**

A. Invoices. Consultant shall submit to City an invoice, on a monthly basis, for the Services performed pursuant to this Agreement. Each invoice shall itemize the Services rendered during the billing period, hourly rates charged, if applicable, and the

amount due. City shall review each invoice and notify Consultant in writing within ten Business days of receipt of any disputed invoice amounts.

B. Payment. City shall pay all undisputed invoice amounts within 30 calendar days after receipt up to the Maximum Compensation set forth in Section 3 of this Agreement. City does not pay interest on past due amounts. City shall not withhold federal payroll, state payroll or other taxes, or other similar deductions, from payments made to Consultant. Notwithstanding the preceding sentence, if Consultant is a nonresident of California, City will withhold the amount required by the Franchise Tax Board pursuant to Revenue and Taxation Code Section 18662 and applicable regulations.

C. Audit of Records. Consultant shall make all records, invoices, time cards, cost control sheets and other records maintained by Consultant in connection with this Agreement available during Consultant's regular working hours to City for review and audit by City.

**5. Independent contractor.** Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of City.

## **6. Information and Documents.**

A. Consultant covenants that all data, reports, documents, discussion, or other information (collectively "Data") developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Consultant without prior written authorization by City. City shall grant such authorization if applicable law requires disclosure. Consultant, its officers, employees, agents, or subcontractors shall not without written authorization from the City Manager or unless requested in writing by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary," provided Consultant gives City notice of such court order or subpoena.

B. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City may, but has no obligation to, represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with

City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct or rewrite the response.

C. All Data required to be furnished to City in connection with this Agreement shall become City's property, and City may use all or any portion of the Data submitted by Consultant as City deems appropriate. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the Services, surveys, notes, and other documents prepared in the course of providing the Services shall become City's sole property and may be used, reused or otherwise disposed of by City without Consultant's permission. Consultant may take and retain copies of the written products as desired, but the written products shall not be the subject of a copyright application by Consultant.

D. Consultant's covenants under this Section shall survive the expiration or termination of this Agreement.

**7. Conflicts of Interest.** Consultant and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar Services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the City Representative's prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

**8. Indemnification, Hold Harmless, and Duty to Defend.**

A. Indemnities.

1) To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate

to the acts or omissions of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2).

3) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Consultant's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

## **9. Insurance.**

A. Minimum Scope and Limits of Insurance. Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of \$2,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of \$2,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this Section.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of \$1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required, but Consultant shall execute a declaration that it has no employees.

4) Professional Liability/Errors and Omissions Insurance with minimum limits of \$2,000,000.00 per claim and in aggregate.

B. Acceptability of Insurers. The insurance policies required under this Section shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self insurance shall not be considered to comply with the insurance requirements under this Section.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming City and its elected and appointed officials, officers, employees, agents and volunteers as additional insureds. This provision shall also apply to any excess/umbrella liability policies.

D. Primary and Non-Contributing. The insurance policies required under this Section shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its elected and appointed officials, officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

E. Consultant's Waiver of Subrogation. The insurance policies required under this Section shall not prohibit Consultant and Consultant's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Consultant shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Section during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Section is canceled or reduced in coverage or limits, Consultant shall, within two Business Days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Consultant does not maintain the policies of insurance required under this Section in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Section, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

I. Evidence of Insurance. Prior to the performance of Services under this Agreement, Consultant shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City.

Consultant shall maintain current endorsements on file with City's Risk Manager. Consultant shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under Section 8 of this Agreement.

K. Subcontractor Insurance Requirements. Consultant shall require each of its subcontractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section.

## **10. Mutual Cooperation.**

A. City's Cooperation. City shall provide Consultant with all pertinent Data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

**11. Records and Inspections.** Consultant shall maintain complete and accurate records with respect to time, costs, expenses, receipts, correspondence, and other such information required by City that relate to the performance of the Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to City, its designees and representatives at reasonable times, and shall allow City to examine and audit the books and records, to make transcripts therefrom as necessary, and to inspect all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three years after receipt of final payment.

## **12. Termination of Agreement.**

A. Right to Terminate. City may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to Consultant at least five calendar days before the termination is to be effective. Consultant may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least 60 calendar days before the termination is to be effective.

B. Obligations upon Termination. Consultant shall cease all work under this Agreement on or before the effective date of termination specified in the notice of termination. In the event of City's termination of this Agreement due to no fault or failure



of performance by Consultant, City shall pay Consultant based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the Services required by this Agreement. Consultant shall have no other claim against City by reason of such termination, including any claim for compensation.

**13. Force Majeure.** Consultant shall not be liable for any failure to perform its obligations under this Agreement if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to acts of God, embargoes, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond Consultant's reasonable control and not due to any act by Consultant.

**14. Default.**

A. Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default.

B. In addition to the right to terminate pursuant to Section 12, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City shall serve Consultant with written notice of the default. Consultant shall have ten calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

**15. Notices.** Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Consultant's and City's regular business hours, or (c) three Business Days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

If to City:

Attn: Bruce Moe  
City of Manhattan Beach  
1400 Highland Avenue  
Manhattan Beach, California 90266  
Telephone: 310-802-5053  
Email: [bmoe@citymb.info](mailto:bmoe@citymb.info)

If to Consultant:

Richard K. Kikuchi  
Lance, Soll & Lunghard, LLP  
203 N. Brea Blvd., Suite 203  
Brea, California 92821  
Telephone: 714-672-0022  
Email: [Richard.kikuchi@lslcpas.com](mailto:Richard.kikuchi@lslcpas.com)

With a courtesy copy to:

Quinn M. Barrow, City Attorney  
1400 Highland Avenue  
Manhattan Beach, California 90266  
Telephone: (310) 802-5061  
Email: [qbarrow@rwglaw.com](mailto:qbarrow@rwglaw.com)

**16. Non-Discrimination and Equal Employment Opportunity.** In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation or other basis prohibited by law. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information or sexual orientation.

**17. Prohibition of Assignment and Delegation.** Consultant shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, without City's prior written consent. City's consent to an assignment of rights under this Agreement shall not release Consultant from any of its obligations or alter any of its primary obligations to be performed under this Agreement. Any attempted assignment or delegation in violation of this Section shall be void and of no effect and shall entitle City to terminate this Agreement. As used in this Section, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

**18. No Third Party Beneficiaries Intended.** This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

**19. Waiver.** No delay or omission to exercise any right, power or remedy accruing to City under this Agreement shall impair any right, power or remedy of City, nor shall it be

construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement shall be (1) effective unless it is in writing and signed by the Party making the waiver, (2) deemed to be a waiver of, or consent to, any other breach, failure of a condition, or right or remedy, or (3) deemed to constitute a continuing waiver unless the writing expressly so states.

**20. Final Payment Acceptance Constitutes Release.** The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's work or services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, subcontractors 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 City for any defect or error in the work prepared by Consultant, its employees, subcontractors and agents.

**21. Corrections.** In addition to the above indemnification obligations, Consultant shall correct, at its expense, all errors in the work which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction in a reasonably timely manner, such correction may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction from any retention amount held by City or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction.

**22. Non-Appropriation of Funds.** Payments to be made to Consultant by City for services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's services beyond the current fiscal year, this Agreement shall cover payment for Consultant's services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

**23. Exhibits.** Exhibits A and B constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, or between a provision of this Agreement and a provision of Consultant's proposal, the provisions of this Agreement shall control.

**24. Entire Agreement and Modification of Agreement.** This Agreement and all exhibits referred to in this Agreement constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other prior or contemporaneous oral or written

understandings and agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by both Parties.

**25. Headings.** The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

**26. Word Usage.** Unless the context clearly requires otherwise, (a) the words “shall,” “will” and “agrees” are mandatory and “may” is permissive; (b) “or” is not exclusive; and (c) “includes” or “including” are not limiting.

**27. Time of the Essence.** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

**28. Business Days.** “Business days” means days Manhattan Beach City Hall is open for business.

**29. Governing Law and Choice of Forum.** This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of California, except that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any dispute that arises under or relates to this Agreement (whether contract, tort or both) shall be resolved in a superior court with geographic jurisdiction over the City of Manhattan Beach.

**30. Attorneys’ Fees.** In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall be entitled to recover all attorneys’ fees, experts’ fees, and other costs actually incurred in connection with such litigation or other proceeding, in addition to all other relief to which that Party may be entitled.

**31. Severability.** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable for any reason, the validity of and enforceability of the remaining provisions of this Agreement shall not be affected and continue in full force and effect.

**32. Counterparts.** This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument.

**33. Corporate Authority.** Each person executing this Agreement on behalf of his or her Party warrants that he or she is duly authorized to execute this Agreement on behalf of that Party and that by such execution, that Party is formally bound to the provisions of this Agreement.

*[SIGNATURE PAGE FOLLOWS]*

The Parties, through their duly authorized representatives are signing this Agreement on the date stated in the introductory clause.

City:

City of Manhattan Beach,  
a California municipal corporation

Consultant:

Lance, Soll & Lunghard, LLP,  
a California Limited Liability Partnership

By: \_\_\_\_\_  
Name: Bruce Moe  
Title: City Manager

By: \_\_\_\_\_  
Name: Richard K. Kikuchi  
Title: Partner

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Liza Tamura  
Title: City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Name: Quinn M. Barrow  
Title: City Attorney

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Name: Steve S. Charelian  
Title: Finance Director

**EXHIBIT A**  
**SCOPE OF SERVICES**



**PREPARED BY:**

Lance, Soll & Lunghard, LLP  
Certified Public Accountants  
203 N. Brea Blvd., Suite 203  
Brea, CA 92821  
(714) 672-0022

Proposal Presented to

**CITY OF MANHATTAN BEACH**

**PROPOSAL FOR  
PROFESSIONAL AUDIT SERVICES**

**RFP #1195-19 Auditing Services**

**CONTACT PERSON:**

Richard K. Kikuchi, CPA, Partner  
[Richard.Kikuchi@lsllcpas.com](mailto:Richard.Kikuchi@lsllcpas.com)  
(714) 672-0022

**December 10, 2018**

Focused  
on YOU







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## TRANSMITTAL LETTER

December 10, 2018

City of Manhattan Beach  
City Clerk's Office  
1400 Highland Avenue  
Manhattan Beach, California 90266

**LANCE, SOLL & LUNGHARD, LLP (LSL)** is pleased to respond to your request for proposal for audit services. As a leader in the field of governmental accounting and auditing, we appreciate this opportunity to present our professional qualifications. Because of our extensive city government experience, dedication to excellence, and determination to retain the brightest talent, we hope you find that LSL is the most qualified accounting firm to provide professional audit services to the City of Manhattan Beach.

### **ANNUAL SERVICES**

The City of Manhattan Beach (City) will receive the following services for three (3) fiscal years beginning with fiscal year ending June 30, 2019, with the option to extend two (2) additional years:

- Perform an audit of all funds of the City and its component unit, in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller of the United States, and express an opinion on the fair presentation of the basic financial statements. We will prepare the Comprehensive Annual Financial Report (CAFR) in full compliance with all current GASB pronouncements and in accordance with the guideline from the Government Finance Officers Association (GFOA) in order to obtain the Certificate of Achievement for Excellence in Financial Reporting. Preparation of the CAFR will include all schedules, footnotes and required supplementary information, and will respond to all GFOA comments. We will also apply limited audit procedures to the Management's Discussion and Analysis and required supplementary information.
- Perform a Single Audit on the expenditures of federal grants when required in accordance with the audit requirements of Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements of Federal Awards (Uniform Guidance and render the appropriate audit reports on Internal Control over Financial Reporting based upon the audit of the City's financial statements in accordance with *Government Auditing Standards* and the appropriate reports on compliance with Requirements Applicable to each Major Program, Internal Control over Compliance and on the Schedule of Expenditures of Federal Awards.
- Prepare a management letter, including appropriate recommendations regarding the City's systems of internal control, accounting procedures, and other significant observations.
- Attend three (3) public meetings to present and discuss findings and recommendations.



All working papers and reports will be retained (at our expense) for a minimum of seven (7) years, unless we are notified in writing by the City of the need to extend that retention period. Upon written request, we will make working papers available to parties designated by the City. In addition, we will respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance

Upon identification or indication of irregularities or illegal acts, we will make an immediate written report to the City Manager, City Attorney and the Finance Director.

We are committed to provide the services discussed above in accordance with your timetable. This proposal is a firm and irrevocable offer valid for 120 days for the fiscal years ending June 30, 2019 through June 30, 2021, with the option to renew the contract for two additional fiscal years. For purposes of this proposal, Richard K. Kikuchi, Partner is authorized to make representations for our firm. I can be reached at the address below or by phone at (714) 672-0022 or through email at [richard.kikuchi@lsicpas.com](mailto:richard.kikuchi@lsicpas.com).

Richard K. Kikuchi, CPA  
Engagement Partner  
203 N. Brea Blvd., Suite 203  
Brea, California 92821



## ADDITIONAL BENEFITS TO WORKING WITH LSL

In today's environment, keeping up with the numerous accounting and regulatory changes can seem unmanageable. Finance departments are facing more complexity, risk, and change than ever before, and with less resources. As the industry continues to evolve, a strategic relationship with LSL can help you better manage these changes and be more equipped for the future. Training and communication is the bridge that connects us. We offer to our clients:

**1) Annual Governmental Accounting Update**

Annually, we hold a half-day seminar providing an update to new accounting and regulatory standards impacting local governments. The goal is to provide useful relevant information that impacts your organization.

**2) Annual Onsite Client Specific Training**

This is tailored training for your organization on topics that are most relevant and needed for you and your team. Topics may include fraud risk management, internal controls, accounting pronouncements, governmental accounting, and CAFR preparation.

**3) Focused Topic Specific Webinars and Ongoing News & Alerts**

These discuss important topics effecting local governments sometimes need more attention and explanation. In addition to our annual update, our webinars and news offer a short-focused approach to these critical areas.

**4) Meetings with Council & Committees**

We believe communication is the key to a successful relationship and offer two annual meetings with your City Council or Committees. Both meetings encourage dialogue between LSL and City Council during the preliminary and concluding segments of the audit.



## TECHNICAL PROPOSAL

### 1. LICENSE TO PRACTICE IN CALIFORNIA

LSL is a limited liability partnership and is not a wholly owned subsidiary of a parent company. LSL is a public accounting firm licensed by the State of California, Department of Consumer Affairs, as a Public Accounting Partnership. As a firm, we are members of the American Institute of Certified Public Accountants and the California Society of Certified Public Accountants. All key staff to be assigned to this engagement are or will be licensed by the State of California to practice as Certified Public Accountants.

### 2. INDEPENDENCE

We meet the independence requirements as defined by *Government Auditing Standards* for the City of Manhattan Beach and its component unit. Our partners do not own any other business organization that has in the past, or will in the future, be providing services, supplies, materials or equipment to the City of Manhattan Beach. **LSL is the current independent auditor for the City of Manhattan Beach and is assisting the City with the preparation of its Comprehensive Annual Financial Report for fiscal year 2017-18.** We have no conflicts of interest relative to performing the audit. LSL will provide written notice of any reportable professional relationship entered into during the period of the proposed agreement.

### 3. FIRM QUALIFICATIONS AND EXPERIENCE

LSL is a regional public accounting firm that currently meets the auditing needs of governmental entities throughout California. Services to local governmental entities have been provided since 1929. This experience has led to the development of efficient procedures that provide numerous client benefits.

Our clients have grown to understand that an audit from LSL provides them with a wealth of knowledge, confidence and value-added services. For this and many other reasons, our firm has consistently been named one of the "Top Accounting Firms" in Orange County by the Orange County Business Journal, "Top Workplaces- 2016 and 2017" in Orange County by the Orange County Register. We were also on the list of CalCPA Top 150 firms in 2016

### SIZE OF THE FIRM AND SIZE OF THE FIRM'S GOVERNMENT AUDIT STAFF

Our firm has approximately 115 employees including 17 partners and professional staff of approximately 70. Governmental staff consists of four partners, one senior manager, four managers, five supervisors and ten seniors. All professional staff assigned to the proposed engagement work on a full-time basis.

### LOCATION OF OFFICES

LSL is a regional firm with offices in Brea, Santa Ana and Sacramento, California. The audit for the City of Manhattan Beach will be staffed from our Brea location.

### RANGE OF ACTIVITIES

Our Brea office's activities overall cover auditing and attestation, business advisory, taxes and planning, and accounting and financial services. Our government attestation activities represent approximately 30% of the overall firm activities.

### GFOA AWARD PROGRAM

We prepare the financial statements and footnote disclosures for most of our clients that have received the GFOA award. All of our governmental partners, managers, and seniors have been closely involved in the preparation of these reports.





## **NUMBER AND NATURE OF PROFESSIONAL STAFF TO BE EMPLOYED ON THE ENGAGEMENT**

The most critical component in the successful completion of an audit is the personnel assigned to carry out the responsibilities. We have assembled a team composed of individuals with the optimum mix of talents. The individuals assigned have experience in performing the tasks for which they are responsible, as well as familiarity with all municipal accounting operations. In addition, each has developed extensive skills in a variety of other complementary subjects through their work with clients in other industries. Thus, the experience gained on previous assignments can be applied and tailored to the unique needs of your organization. For the audit of the City of Manhattan Beach, the personnel assigned and their number of years of experience auditing governmental entities in California is as follow:

Richard K Kikuchi, CPA – Engagement Partner  
29 years  
Bryan S. Gruber, CPA – Concurring Partner  
15 years  
Frank C. North, CPA – Senior Manager  
21 years  
Amira Khodari – Senior In-Charge  
4 years

The audit team will also include an additional two to three staff for audit fieldwork. All staff assigned to the City of Manhattan Beach will work on a full-time basis.

## **LOCAL EXPERIENCE**

We currently provide professional auditing services to nearly **60 governmental entities throughout California**. A complete listing of our current government audit clients, along with phone numbers of contact personnel and reference as to services provided, is listed on the next page. You are welcomed to contact any or all of them to get their opinion on the services we provide.

## **EXTERNAL QUALITY CONTROL REVIEWS**

We have participated in the peer review program since its inception. The most recent peer reviews was conducted by Sikich. All peer reviews covered governmental engagements. Our most recent peer review is included on page 8.

## **DESK REVIEWS/DISCIPLINARY ACTION**

There have been no disciplinary actions against our organization since its inception. All our Single Audit reports are desk reviewed either by the Federal cognizant agency or the State Controller's Office acting as the Oversight Agency. We have never had a report rejected by any of these agencies. In fact, we are highly regarded and recognized by the staff of the State Controller's Office for top quality reports.

## **COMPUTER CAPABILITIES**

One of our firm's core values is innovation, including technological innovation. We utilize some of the most current technological solutions including cloud-based audit software, advanced data analysis software, and secure file sharing. This enables the City's data to be provided to us securely and analyzed efficiently and effectively.



CPAs AND ADVISORS

## LSL LISTING OF CURRENT GOVERNMENT AUDIT CLIENTS

Client	Contact Person	Service Code	Year	Telephone
Agoura Hills	Ms. C. Pinuelas, Finance Director	F	4	818-597-7319
American Water Works Association	Ms. S. Ramakrishnan, Asst. Exec. Director	F	4	909-291-2114
Banning	Ms. M. Green, Accounting Manager	F, S	17	951-922-3118
* Bell	Ms. Shally Lin, Interim Finance Director	F	4	323-588-6211
Big Bear Lake	Ms. K. Ent, Director of Admin. Services	F, S	18	909-866-5831
Burbank	Ms. C. L. Giraldo, Financial Services Dir	I	5	818-238-5487
* Camarillo	Ms. G. Wilson, Finance Director	F, S	1	805-388-5320
Canyon Lake	Mr. T. Shea, Finance Director	F	20	909-244-2955
* Cathedral City	Mr. K. Biersack, Fiscal Officer	F, S	6	760-770-0378
* Chino Hills	Ms. C. Buhagiar, Finance Director	F, S	18	909-364-2600
* Chula Vista	Mr. D. Bilby, Director of Finance	F, S	3	619-691-5250
Coachella Valley Association of Governments	Mr. G. Leong, Director of Administrative Services	F	2	760-346-1127
* Coachella Valley Water District	Ms. K. Godbey, Finance Director	F, S, U	3	760-398-2661
Community Development Commission of the County of Los Angeles	Mr. M. Fortini, Acting Director, Finance and Budget Division	F, S	1	626-586-1890
* Corona	Ms. K. Eden, Finance Director	F, S, U	5	951-736-2315
Covered California	Ms. D. Mejia, CFO	F, S	1	916-228-8223
* Cypress	Ms. D. Mullally, Asst. Finance Director	F, S	1	714-229-6700
* Diamond Bar	Ms. D. Honeywell, Finance Director	F, S	5	909-839-7051
Dixon	Ms. J. Michaels-Aguilar, Finance Director	F, S	2	707-678-7000 x108
* Downey	Mr. A. Gandhi, Finance Director	F, S	3	562-904-7265
* Emeryville	Ms. S. Hsieh, Finance Director	F, S	12	510-596-4352
* Fullerton	Ms. K. Saldana, Fiscal Services Manager	F, S	5	714-738-3133
Grand Terrace	Ms. C. Fortune, Finance Director	F	3	909-824-6621
Greater Los Angeles Vector Control	Mr. T. Dever, District Manager	F	6	562-758-6501
* Indio	Mr. Rob Rockwell, Assistant City Manager/Director of Finance	F, S	1	760-391-4029
* Inland Empire Utilities Agency	Ms. Christina Valencia, Chief Financial Officer	F, S, U	1	909-993-1600
Imperial Beach	Mr. D. Bradley, Finance Director	F	12	619-628-1361
Inglewood	Ms. S. Koike, Assistant Finance Director	F, S	1	310-412-8724
* Irwindale	Ms. E. Carreon, Finance Director	F	20	626-430-2221
* Lake Elsinore	Ms. Shannon Buckley, Finance Manager	F, S	1	951-674-3124
Lawndale	Mr. W. Schaller, Accounting Manager	F	2	310-973-3245
* Live Oak	Mr. J. Aguilar, Finance Director	F, S	1	530-695-2112
* Los Alamitos	Ms. ML Valdez, Administrative Director/Treasurer	F	2	562-431-3538 x222
* Malibu	Ms. R. Feldman, Finance Director	F	12	310-456-2489
* Manhattan Beach	Mr. S. Charelian, Finance Director	F	14	310-802-5553
* Monrovia	Mr. B. Bullis, Director of Admin. Services	F, S	15	626-932-5510
Monterey One Water	Ms. T. Hannah, Chief Financial Officer	F, U	2	831-645-4623
* Oceanside	Ms. J. McPherson, Finance Director	F, S	8	760-435-3839
* Ontario	Ms. D. Nunes, Director of Fiscal Services	F, S	21	909-395-2352
* Palm Desert	Mr. J. Espinoza, Asst. Finance Director	F	1	760-346-0611
* Palm Springs	Ms. M. Pendleton, Acting Finance Director	F, S	6	760-323-8229
* Pasadena	Mr. R. Ridley, Controller	F, S, U	3	626-744-7497
* Rancho Cucamonga	Ms. T. Layne, Finance Officer	F, S, U	38	909-989-1851
* Redondo Beach	Ms. M. Ruhland, Assistant Finance Director	F, S	1	310-318-0683
Rolling Hills	Mr. T. Shea, Finance Director	F	10	310-377-1521
San Diego County Water Authority	Ms. G. Herbon, Water Manager	I, U	1	858-522-6679
San Dimas	Mr. M. O'Brien, Finance Director	F, S	55	909-394-6200
San Marino	Mr. Josh Betta, Finance Director	F	23	626-300-0700
* Santa Barbara	Mr. B. Samario, Finance Director	F, S	5	805-897-1978
* Santa Fe Springs	Mr. J. Gomez, Director of Finance and Administrative Services	F, S	2	562-868-0511
* Santa Monica	Ms. G. Decavalles-Hughes, Finance Director	F, S	1	310-458-8281
* Seal Beach	Ms. V. Beatley, Finance Director	F, S	5	562-431-2527
Six Basins Watermaster	Mr. L. Stahlhoefer, Controller	F	4	949-420-3030
* Three Valleys Water District	Mr. R. Hansen, General Manager	F, U	8	909-626-4631
* Union Sanitary District	Ms. L. Brenner, FS Coach	F, U	1	510-477-7647

### Service Codes:

F - Financial Audit

S - Single Audit

I - Internal Audit

U - Utility Agency

\* - Participated in the GFOA Award Programs and has received or anticipates receiving outstanding awards



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Akron, OH 44313

330.864-6661 // [www.sikich.com](http://www.sikich.com)  
Certified Public Accountants & Advisors  
Members of American Institute of Certified Public Accountants

## SYSTEM REVIEW REPORT

October 26, 2016

To the Partners of Lance, Soll & Lunghard, LLP  
and the Peer Review Committee of the California Society of CPA's:

We have reviewed the system of quality control for the accounting and auditing practice of Lance, Soll & Lunghard, LLP (the Firm) in effect for the year ended May 31, 2016. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. As a part of our peer review, we considered reviews by regulatory entities, if applicable, in determining the nature and extent of our procedures. The Firm is responsible for designing a system of quality control and complying with it to provide the Firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at [www.aicpa.org/prsummary](http://www.aicpa.org/prsummary).

As required by the standards, engagements selected for review included engagements performed under Government Auditing Standards and audits of employee benefit plans.

In our opinion, the system of quality control for the accounting and auditing practice of Lance, Soll & Lunghard, LLP in effect for the year ended May 31, 2016 has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Lance, Soll & Lunghard, LLP has received a peer review rating of *pass*.

*Sikich LLP*





Richard K. Kikuchi, CPA  
Engagement Partner



Bryan S. Gruber, CPA  
Quality Assurance Partner



Frank C. North, CPA  
Senior Assurance Manager



Amira Khodari  
Assurance Senior

#### 4. PARTNER, SUPERVISORY, AND STAFF QUALIFICATIONS AND EXPERIENCE

##### KEY PERSONNEL AND RESPECTIVE RESPONSIBILITIES

The individuals assigned have experience in performing the tasks for which they are responsible, as well as familiarity with all municipal accounting operations. In addition, each has developed extensive skills in a variety of other complementary subjects through their work with clients in other industries. Thus, the experience gained on previous assignments can be applied and tailored to the unique needs of your organization. **LSL will not be subcontracting any portion of the audits of the City of Manhattan Beach.**

The partners at LSL are routinely an integral part of the audit process and will be overseeing and supervising staff personnel in the field.

Resumes of the key personnel assigned are included in following pages and list their governmental auditing experience, applicable continuing professional education for the past three years, and memberships in professional organizations relevant to the performance of the audit of the City of Manhattan Beach.

Any changes in personnel at the in-charge level or above will be approved by the City of Manhattan Beach. LSL's philosophy is to provide **quality audit services with minimal disruption to City staff**. Our focused efforts to obtain and retain quality staff have further enabled us to provide high level of services to our clients.

##### CONTINUING EDUCATION

As a firm policy, all professional government staff meet the requirement of 40 hours of continuing education every year, with at least 24 hours in governmental accounting and auditing in a two-year period. Our educational programs include training from CalCPA, AICPA, Government Audit Quality Center, and GFOA.



**RICHARD K. KIKUCHI, CPA**  
**ENGAGEMENT PARTNER**

## ACHIEVEMENTS

Richard currently serves as a technical reviewer for the Government Finance Officers Association (GFOA) and the California Society of Municipal Finance Officers (CSMFO). He sat on the CSMFO Special Districts Technical Committee and has taught an Introductory Governmental Accounting course through the CSMFO Career Development Committee. Richard recently sat on the California State Board of Accountancy's Qualifications Committee, which is an advisory committee established to examine and to make recommendations for all applicants for the license of Certified Public Accountant.

## LICENSE

Certified Public Accountant - California 1991

## CONTINUING EDUCATION

Total hours were 142 in last three years of which 64 were in governmental accounting and auditing subjects. Richard has met the Governmental Auditing Standards requirement for governmental CPE.

## MEMBERSHIPS

California Society of Certified Public Accountants (CalCPA)  
American Institute of Certified Public Accountants (AICPA)  
California Society of Municipal Finance Officers, Associate Member (CSMFO)  
Government Finance Officers Association, Associate Member (GFOA)

## EXPERIENCE

Richard has over 29 years' experience in governmental audits. He is currently involved on the following major municipal engagements:

City of Pasadena  
City of Santa Monica  
City of Big Bear Lake  
City of Irwindale  
City of Santa Fe Springs  
City of Indio  
City of Ontario  
City of Rancho Cucamonga  
City of Imperial Beach

City of Coronado  
City of Santa Barbara  
City of Chula Vista  
City of Monrovia  
City of La Quinta  
City of Malibu  
City of Manhattan Beach  
American Water Work Association  
Community Development Commission  
Of the County of Los Angeles

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**Richard K. Kikuchi, CPA, Partner (Continued)**

This work entailed the preparation of the Comprehensive Annual Financial Report for those entities involved in the award programs of the California Society of Municipal Finance Officers and the Government Finance Officers Association of the United States and Canada. Richard has the responsibility for overseeing federal single audits for these clients. These audits have met the requirements of the OMB and have been desk reviewed by the State Controller's Office.

**EDUCATION**

B.A in Business Administration with an emphasis in Accounting - California State University, Fullerton 1985



**BRYAN S. GRUBER, CPA**  
**ENGAGEMENT PARTNER**

### ACHIEVEMENTS

Bryan has made numerous presentations for CSMFO on current accounting and auditing material. He also currently serves as a technical reviewer for the Government Finance Officers Association (GFOA). Bryan has been involved with teaching current audit and accounting related material at Lance, Soll & Lunghard, LLP's in house training seminars. He serves as firm IT Specialist for his involvement in IT related controls, data mining and analysis, and auditing software.

### LICENSE

Certified Public Accountant - California 2008

### CONTINUING EDUCATION

Total hours were 132 in last three years of which **74 were in governmental accounting and auditing subjects**. Bryan has met the Governmental Auditing Standards requirement for governmental CPE.

### MEMBERSHIPS

California Society of Certified Public Accountants (CalCPA)  
American Institute of Certified Public Accountants (AICPA)  
California Society of Municipal Finance Officers, Associate Member (CSMFO)  
Government Finance Officers Association, Associate Member (GFOA)  
Association of Local Government Auditors

### EXPERIENCE

Over fourteen years of experience in governmental audits including CAFR audits, component-unit audits and Single Audits. Bryan has also made numerous presentations to City Councils, Boards of Directors and Audit Committees. He has been involved in the following municipal engagements:

Bryan has also been involved in the following engagements:

City of Agoura Hills  
City of Cathedral City  
City of Burbank  
City of Duarte  
City of Emeryville  
City of Hidden Hills  
City of La Quinta  
Monterey One Water

Orange County Water District  
Three Valleys Municipal Water District  
City of Oceanside  
City of Palm Springs  
City of San Dimas  
City of Solana Beach  
City of Vista  
City of Rolling Hills

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**Bryan S. Gruber, CPA, Partner (Continued)**

This work entailed:

- The preparation of the Comprehensive Annual Financial Report for those entities involved in the award programs of the Government Finance Officers Association of the United States and Canada.
- Review the audit of these entities provide and technical assistance throughout the year to provide the most up to date information with current GASB pronouncement.
- Present the overall audit results to audit committees or other Board Members.

**EDUCATION**

Bachelor of Arts Degree in Business Administration with an emphasis in Accounting –  
California State University, Fullerton 2004



**FRANK C. NORTH, CPA**  
**SENIOR ASSURANCE MANAGER**

### **ACHIEVEMENTS**

Frank currently serves as a technical reviewer for the Government Finance Officers Association (GFOA).

### **LICENSE**

Certified Public Accountant - California 1996

### **CONTINUING EDUCATION**

Total hours were 142 in last three years of which 86 were in governmental accounting and auditing subjects. Frank has met the Governmental Auditing Standards requirement for governmental CPE.

### **MEMBERSHIPS**

California Society of Certified Public Accountants (CalCPA)  
American Institute of Certified Public Accountants (AICPA)

### **EXPERIENCE**

Over twenty-two years of experience in governmental audits. Frank has established himself as an outstanding asset and resource at LSL. He has demonstrated his talent in the area of municipal accounting and auditing. During his time with the firm, Frank has performed all phases of our municipal audits, including CAFR audits, redevelopment agency audits and Single Audits. He has been involved in the following municipal engagements:

#### *City of Ontario*

The City of Ontario is a large city consisting of a variety of governmental and business-type funds including internal service funds. As the Senior Audit Manager, it has been Frank's responsibility to oversee the fieldwork for all areas of the financial audit, including assisting the City with the preparation of the Comprehensive Annual Financial Report, and the Single Audit in accordance with the Uniform Guidance. The City of Ontario receives the GFOA Award for Excellence in Financial Reporting each year.

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**Frank C. North, CPA, Senior Manager (Continued)**

**Community Development Commission of the County of Los Angeles**

The Community Development Commission of the County of Los Angeles is a local government agency consisting of a variety of governmental and business-type funds including internal service funds. As the Senior Audit Manager, Frank's responsibility has been to oversee the fieldwork for all areas of the financial audit, including reviewing the draft of the Comprehensive Annual Financial Report for submission to the GFOA Award for Excellence in Financial Reporting program, and reviewing the Single Audit in accordance with the Uniform Guidance.

**City of Manhattan Beach**

As Senior Audit Manager, Frank's responsibility has been to oversee the fieldwork for all areas of the financial audit, including assisting the City of Manhattan Beach with the preparation of the Comprehensive Annual Financial Report, and the Single Audit in accordance with the Uniform Guidance. The City of Manhattan Beach receives the GFOA Award for Excellence in Financial Reporting each year.

Frank has also been involved in the following engagements:

City of Irwindale  
City of Chino Hills  
City of Malibu  
City of Santa Barbara  
City of Ontario  
City of Palm Springs  
City of Big Bear Lake  
City of Rancho Cucamonga

Community Development Commission  
of the County of Los Angeles  
City of Manhattan Beach  
City of Lawndale  
City of Grand Terrace

**EDUCATION**

Bachelor of Arts Degree in Business Administration with an emphasis in Accounting –  
California State University, Fullerton 1990



**AMIRA KHODARI**  
**ASSURANCE SENIOR**

### **LICENSE**

Certified Public Accountant – In Progress

### **CONTINUING EDUCATION**

Total hours were 164 in last three years of which **112 were in governmental accounting and auditing subjects**. Amira has met the Governmental Auditing Standards requirement for governmental CPE.

### **EXPERIENCE**

Amira has progressed in an outstanding manner. During her time with the firm, Amira has performed all phases of our government audits, including water districts, other special districts, CAFR audits, successor agency audits and Single Audits. She has been involved in the following municipal engagements:

City of Agoura Hills  
City of Corona  
City of San Marino  
City of Downey  
City of Cathedral City

City of Big Bear Lake  
City of La Quinta  
City of Pasadena

### **EDUCATION**

Bachelor of Science Degree in Accounting and Finance, (Magna Cum Laude) –  
La Sierra University, Riverside 2014

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## 5. SIMILAR ENGAGEMENTS WITH OTHER GOVERNMENT ENTITIES

Approximately 30% of our practice deals with the government sector and related services. Generally, our government sector services break down into the following major classifications: attestation, compliance, performance, strategic planning and tax services. As a firm, we have extensive experience with audits of municipalities' compliance with OMB Circular A-133 and the Uniform Guidance. We are familiar with nearly all federal and state grant programs typically participated in by municipalities. We have also performed engagements related to bond reporting, including issuing letters of comfort and other services. Following is five similar engagements that have been performed within the last three years:

**City of Pasadena** - Audit and preparation of a Comprehensive Annual Financial Report (CAFR) which receives the GFOA award in addition to various component unit financial statements, compliance and single audits. These services have been provided for over 3 years. Total hours for fiscal year 2016-17 were 1,946 hrs. Last audit performed was for June 30, 2018. Engagement partner is Mr. Richard Kikuchi

**Contact person:** Mr. Matthew Hawkesworth,  
Director of Finance

**Phone:** (626) 396-7654

**Email:** [mhawkesworth@cityofpasadena.net](mailto:mhawkesworth@cityofpasadena.net)

**City of Santa Barbara** - Audit and preparation of a Comprehensive Annual Financial Report (CAFR) which receives the GFOA award in addition to a various compliance and single audits. These services have been provided for over 6 years. Total hours for fiscal year 2016-17 were 766 hrs. Last audit performed was for June 30, 2018. Engagement partner is Mr. Richard Kikuchi

**Contact person:** Mr. Robert Samario,  
Finance Director

**Phone:** (805) 897-1978

**Email:** [bsamario@ci.santa-barbara.ca.us](mailto:bsamario@ci.santa-barbara.ca.us)

**City of Ontario** - Audit and preparation of a Comprehensive Annual Financial Report (CAFR) which receives the GFOA award. Audit and preparation of component unit financial statements, Air Quality Improvement Trust Fund and a Single Audit in accordance with OMB A-133 and the Uniform Guidance. Review and issue a report on the calculation of the City's Appropriations Limit (GANN). Preparation of the annual State Controller's Report. These services have been provided to the City for the last 20 years. Total hours for fiscal year 2016-17 were 663 hrs. Last audit performed was for June 30, 2018. The engagement partner is currently Mr. Richard Kikuchi.

**Contact person:** Ms. Doreen Nunes,  
Director of Fiscal Services

**Phone:** (909) 395-2352

**Email:** [dnunes@ci.ontario.ca.us](mailto:dnunes@ci.ontario.ca.us)



**City of Rancho Cucamonga** – Audit and preparation of a Comprehensive Annual Financial Report (CAFR) which receives the GFOA award. Audit and preparation of financial statements for the Rancho Cucamonga Fire Protection District, the Air Quality Improvement Trust Fund and a Single Audit in accordance with OMB A-133 and the Uniform Guidance. Review and issue a report on the calculation of the City's Appropriations Limit (GANN). Preparation of the annual State Controller's Report. These services have been provided to the City for the last 38 years. Total hours for fiscal year 2016-17 were 681 hrs. Last audit performed was for June 30, 2018. The engagement partner is currently Mr. Richard Kikuchi.

**Contact person:** Ms. Tamara Layne,  
Finance Director  
**Phone:** (909) 477-2700  
**Email:** [Tamara.Layne@cityofrc.us](mailto:Tamara.Layne@cityofrc.us)

**City of Oceanside** - Audit and preparation of a Comprehensive Annual Financial Report (CAFR) which receives the GFOA award in addition to a single audit in accordance with OMB A-133 and the Uniform Guidance. These services have been provided for the last 8 years. Total hours for fiscal year 2016-17 were 582 hrs. Last audit performed was for June 30, 2018. Engagement partner is: Mr. Bryan Gruber

**Contact person:** Ms. Jane McPherson,  
Finance Director  
**Phone:** (760) 435-3855  
**Email:** [JMcPherson@ci.oceanside.ca.us](mailto:JMcPherson@ci.oceanside.ca.us)

## 6. SPECIFIC AUDIT APPROACH

### PROPOSED SEGMENTATION OF THE ENGAGEMENT

The services will be divided into three segments.

#### ***Segment 1 - Planning and Obtaining an Understanding:***

LSL will provide an annual audit communication letter, engagement letter, and Government Audit Quality Center information letter. The audit communication letter is to be provided to the Governing Board. In addition, this can be communicated orally to the Governing Board or sub-committee, if requested. This communication will discuss the planning stages, the responsibilities of the Governing Board, Auditors, and Management, and provide an opportunity for communication with us as the auditors.

LSL's audit team will meet prior to our initial on-site visit to brainstorm and discuss economic conditions, industry elements, and new standards that will affect the City of Manhattan Beach. A trial balance is requested for our planning meeting to assist the LSL team in obtaining knowledge and preparing expectations for the audit year. We will compile a list of "Prepared by Client" ("PBC") items based on our review of prior year financial statements and information gathered. This will be provided to the City of Manhattan Beach one month prior to our visit or earlier if requested. We operate on a paperless software system and provide a secured cloud-based portal for all clients. The City of Manhattan Beach will have its own folder which can be customized to organize, and upload requested schedules, support documents, etc.

#### ***Segment 2 - Financial Audit Testing:***

Based on the information gathered each year thus far, we will utilize a customized audit program based on the risk assessment developed during our assessment of the City's internal controls and government auditing standards. The primary benefit of a tailored program is a focused set of procedures to address relevant areas. We believe that this approach will be the most effective and efficient by linking financial statement assertions, audit objectives, and procedures that are basic to most governmental audit engagements and critical to the compliance with other material laws and regulations. We will annually compile another customized "Prepared by Client" (PBC) list for the year-end on-site visit and provide it at least one month prior or earlier if requested.

We will request a trial balance for our analytical review to be provided one week prior to our arrival.

Year-end fieldwork will include testing of the balance sheet, revenue and expenditures accounts, confirmation of selected balances, analytical procedures, evaluation of the internal controls and preparation of reports and letters.

#### ***Segment 3 - Conclusion:***

Based on our year-end exit meeting we will schedule a plan to finalize the CAFR in the timetable of the City. We will schedule dates for the initial and final drafts including time for the City review and approval of the financial statements. In addition, this will account for the review of the engagement partner and quality assurance partner. After the review and receipt of the signed representation letter from City, we will provide the final reports by November 30<sup>th</sup> each year.

## LEVEL OF STAFF AND NUMBER OF HOURS TO BE ASSIGNED TO EACH SEGMENT

The level of staff and the number of hours to be assigned to each proposed segment will be as follows:

Segment/Task	Total Proposed Hours					Segment		
	Partners	Manager	In-Charge	Staff	Total	1	2	3
<b>City</b>								
Planning and Internal Control Evaluation	4.0	6.0	16.0	24.0	50.0	42.0	8.0	-
Cash and Investments	-	-	-	12.0	12.0	2.0	8.0	2.0
Receivables and Revenues	-	-	-	32.0	32.0	2.0	28.0	2.0
Inventory	-	-	-	4.0	4.0	-	4.0	-
Prepaid Items and Deposits	-	-	-	4.0	4.0	-	4.0	-
Capital Assets	-	-	-	16.0	16.0	-	14.0	2.0
Accounts Payable and Disbursement	-	-	-	32.0	32.0	2.0	28.0	2.0
Payroll and Other Liabilities	-	-	-	16.0	16.0	-	14.0	2.0
GASB 68 Testwork and Journal Entries	-	10.0	-	24.0	34.0	8.0	24.0	2.0
GASB 75 Testwork and Journal Entries	-	10.0	-	12.0	22.0	8.0	12.0	2.0
Long-Term Debt & Debt Compliance	-	-	12.0	-	12.0	-	10.0	2.0
Insurance & Claims Liability	-	-	-	3.0	3.0	-	3.0	-
Grants	-	-	16.0	-	16.0	-	14.0	2.0
Net Position and Fund Balance	-	-	6.0	-	6.0	1.0	4.0	1.0
	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-
Other Compliance requirements	-	2.0	4.0	8.0	14.0	8.0	6.0	-
Gann Limit		1.0	-	3.0	4.0	4.0	-	-
Audit letters	2.0	6.0	-	-	8.0	-	2.0	6.0
Supervision and Review	8.0	14.0	18.0	-	40.0	8.0	16.0	16.0
<b>Subtotal</b>	<b>14.0</b>	<b>49.0</b>	<b>72.0</b>	<b>190.0</b>	<b>325.0</b>	<b>85.0</b>	<b>199.0</b>	<b>41.0</b>
<b>CAFR preparation</b>	<b>4.0</b>	<b>24.0</b>	<b>24.0</b>	<b>-</b>	<b>52.0</b>	<b>-</b>	<b>16.0</b>	<b>36.0</b>
<b>Single Audit (1 Major Programs)</b>								
Planning	-	1.0	2.0	-	3.0	-	-	3.0
Compliance Testwork (Uniform Guidance)	-	-	8.0	8.0	16.0	-	4.0	12.0
Report Preparation and Supervision	2.0	8.0	6.0	-	16.0	-	-	16.0
<b>Subtotal</b>	<b>2.0</b>	<b>9.0</b>	<b>16.0</b>	<b>8.0</b>	<b>35.0</b>	<b>-</b>	<b>4.0</b>	<b>31.0</b>
<b>Total Proposed Hours</b>	<b>20.0</b>	<b>82.0</b>	<b>112.0</b>	<b>198.0</b>	<b>412.0</b>	<b>85.0</b>	<b>219.0</b>	<b>108.0</b>



## SAMPLE SIZE

Our approach may be to utilize statistical sampling in the areas of receipts, disbursements, utility billing and payroll. Here we develop a statistical conclusion based upon an initial computer selected random sample which is based on the population and other risk factors identified. If errors are noted in the sample, the sample size will be expanded. We believe that a random selection can be efficient, while providing each item in the population an equal chance of being selected. Additionally, we may select a stratified sample of all transactions over a specified dollar limit for review. This allows us to cover all high dollar value transactions not otherwise selected in the random sample. Our samples are selected randomly utilizing IDEA data analysis software.

## ANALYTICAL PROCEDURES

For the audits of the financial statements, we will use analytical procedures as an overall review of the financial information in the preliminary and final stages of the audits. These procedures are designed to assist us in planning our audits and in assessing the propriety of the conclusions reached, and in the evaluation of the overall financial statement presentation. The procedures to be utilized consist of determining expectations for changes to significant revenue, expenditure and balance sheet accounts, reading the financial statements and related notes, reviewing the budget and related material, and focusing on overall relationships within the financial statements. Once determined, these are reviewed to evaluate if the changes appear reasonable or require further analysis. For all significant differences, explanations are obtained as to why the situation occurred and additional substantive procedures may be applied, and related evidence gathered to resolve concerns and questions.

If the City of Manhattan Beach can provide a check register electronically for July 1<sup>st</sup> forward (period after the audit year), then we can pre-select our sample for accounts payable cut-off test work and provide that information ahead of time. Our PBC list will detail out

schedules we would like provided, which is directed straight from the audit report. Support requested and sampling for these schedules will be assessed each year based on the strengths and weaknesses of the internal control processes of the City, and the materiality level of the account. We will discuss our analytical variances with the City and obtain documentation that provides support for the accounts.

## UNDERSTANDING OF THE CITY'S INTERNAL CONTROL STRUCTURE OVER FINANCIAL REPORTING

To gain an understanding of the internal control structure over the financial statements, we will perform procedures as required by SAS 122-125. This will include review of internal controls in the areas of financial reporting; cash; revenues and receivables; expenditures and accounts payable; payroll; capital assets; long-term debt; or grant reporting, as applicable.

Based on the result of our review, we will issue a management letter (SAS 115 Letter) that will identify any significant deficiencies and/or material weaknesses noted. This report is required by the *Government Auditing Standards* issued by the Comptroller General of the United States. Auditing Standards require auditors to obtain an understanding of the entity and its environment along with assessing the risks of material misstatements. LSL obtains an understanding through a variety of ways all throughout the year, but the most pertinent time each year is during our interim on-site visit. We will conduct interviews with management of finance along with each audit section responsible party (e.g. cashier, accounts payable clerk, payroll clerk, etc.) to review the processes and controls through observation and discussions. Based on our observations, we will sample as we observe a "walk-through" to verify the system of control is working in accordance with policies and procedures.

We will provide a list each year of randomly selected employees of the City of Manhattan Beach to perform fraud interviews (SAS 99), which will include all levels of the City across all departments.

After our interim on-site visit, we will have an exit meeting to discuss potential weaknesses, if any, and provide any feedback for improvements or valuable information we have gathered from our outside clientele that would benefit the City of Manhattan Beach.

#### **DETERMINING LAWS AND REGULATIONS SUBJECT TO AUDIT TEST WORK**

Laws and regulations subject to audit test work are determined from the applicable laws, regulations, contracts, and grant agreements which we identify through the understanding we obtain of the City of Manhattan Beach and our extensive experience with governmental entities.

#### **DRAWING AUDIT SAMPLES**

For tests of controls, we use audit sampling. Tests of controls are procedures directed towards determining the effectiveness of the design or operation of an internal structure policy or procedures. Normally, audit sampling is used for tests of controls and tests of compliance that involve inspection of documents and reports indicating performance of the applicable policy or procedures and compliance with the applicable laws and regulations. These sampling procedures test the operating effectiveness of an internal control structure policy or procedures by determining how the policy or procedure was applied, the consistency with which it was applied during the audit period, and by whom it was applied. To achieve this goal, we will draw samples for disbursements, receipts and payroll when applicable. Each document selected will be tested for various attributes that are designed to verify compliance with different aspects of internal controls and applicable laws and regulations. Additionally, each sample item will be tested for coding to the proper accounts and posting

to the general ledger. Sample sizes vary based on the population and risk-based calculations.

#### **USE OF COMPUTER SOFTWARE IN THE ENGAGEMENT**

We use specialized auditing software to perform our audit in addition to Data Analysis Software to perform audit testing. We also use secure web portals to communicate information.

#### **QUALITY ASSURANCE POLICY AND PROCEDURES**

LSL has established strict review procedures to ensure quality reporting in accordance with the standards. These procedures are designed to maximize adherence to quality.

### **7. IDENTIFICATION OF ANTICIPATED POTENTIAL AUDIT PROBLEMS**

With our familiarity with similar local governments, we do not anticipate unusual audit problems. With changes in single audit and GASB pronouncements, we always anticipate a certain degree of problems. To address these, we offer different training opportunities, first-hand experience with similar local governments, and implementation experts on our in-house team.



## 8. PROPOSED AUDIT SCHEDULE

Our proposed schedule for the annual audit is as follows:





## COST PROPOSAL

### CITY OF MANHATTAN BEACH

#### AUDIT WORK COST PROPOSAL FORM AND ESTIMATE OF COST

##### SECTION A: AUDIT WORK COST

SERVICE	OPTION YEARS				
	FY 2019/2020	FY 2020-2021	FY 2021/2022	FY 2022/2023	FY 2023/2024
Audit and Related Reports	\$ 44,530	\$ 45,870	\$ 47,250	\$ 48,670	\$ 48,670
Preparation of Financial Statements	8,470	8,720	8,980	9,250	9,250
Single Audit and Related Reports *	5,190	5,350	5,510	5,680	5,680
Total for Fiscal Year (not to exceed)	\$ 58,190	\$ 59,940	\$ 61,740	\$ 63,600	\$ 63,600

\* Quoted price includes the testing of one major program. Additional program will be \$1,950

##### SECTION B: HOURLY BILLING RATES FOR ENGAGEMENT

POSITION	OPTION YEARS				
	FY 2019/2020	FY 2020-2021	FY 2021/2022	FY 2022/2023	FY 2023/2024
Partner	\$ 266	\$ 274	\$ 282	\$ 291	\$ 291
Manager	176	181	187	193	193
Senior Accountant	133	137	141	144	144
Staff Accountant	119	123	126	130	130
Clerical	Inluded	Inluded	Inluded	Inluded	Inluded
Other	Inluded	Inluded	Inluded	Inluded	Inluded

If it should become necessary for the City to request additional services, such additional work will be performed in an addendum to the contract between the City and LSL using the schedule of hourly rates above.

Name of Firm:

Lance, Soll & Lunghard LLP

Authorized Signature:

Name of Authorized Person:

Richard K. Kikuchi, CPA

Title:

Managing Partner

Address:

203 N. Brea Blvd, Suite 203

City/State/Zip:

Brea, CA 92870

Telephone:

714-672-0022

Email:

[Richard.Kikuchi@lslcpas.com](mailto:Richard.Kikuchi@lslcpas.com)





**EXHIBIT B**  
**APPROVED FEE SCHEDULE**



February 11, 2019

Mr. Steve Charelian  
Finance Director  
City of Manhattan Beach  
1400 Highland Avenue  
Manhattan Beach, California 90266

Re: Best and Final Offer for Professional Audit Services (RFP #1195-19)

Attached is LSL's Best and Final Offer for audit services for the fiscal year ending June 30, 2019, 2020, and 2021 with options to renew the fiscal years ending June 30, 2022 and 2023. We have reduced our original proposed pricing and are now maintaining our fee constant for the first three fiscal years and adding a 3% increase for year 4 (\$1,750) and year 5 (\$1,800).

For the purpose of this best and final offer, Richard K. Kikuchi, Partner is authorized to make representations for our firm, empowered to submit this best and final offer and authorized to sign a contract with the City of Manhattan Beach. I can be reached by phone at (714) 672-0022. or through email at [Richard.kikuchi@lslcpas.com](mailto:Richard.kikuchi@lslcpas.com).

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard K. Kikuchi". The signature is fluid and cursive, with the first name "Richard" and last name "Kikuchi" clearly distinguishable.

Richard K. Kikuchi, Partner  
LANCE, SOLL & LUNGHARD, LLP





## **BEST AND FINAL OFFER COST PROPOSAL**

### **CITY OF MANHATTAN BEACH**

#### **AUDIT WORK COST PROPOSAL FORM AND ESTIMATE OF COST**

##### **SECTION A: AUDIT WORK COST**

SERVICE	OPTION YEARS				
	FY 2019/2020	FY 2020-2021	FY 2021/2022	FY 2022/2023	FY 2023/2024
Audit and Related Reports	\$ 44,530	\$ 44,530	\$ 44,530	\$ 45,870	\$ 47,250
Preparation of Financial Statements	8,470	8,470	8,470	8,720	8,980
Single Audit and Related Reports *	3,690	3,690	3,690	3,850	4,010
Total for Fiscal Year (not to exceed)	\$ 56,690	\$ 56,690	\$ 56,690	\$ 58,440	\$ 60,240
Annual Increase	\$ - \$ - \$ 1,750 \$ 1,800				


\* Quoted price includes the testing of one major program. Additional program will be \$1,950

##### **SECTION B: HOURLY BILLING RATES FOR ENGAGEMENT**

POSITION	OPTION YEARS				
	FY 2019/2020	FY 2020-2021	FY 2021/2022	FY 2022/2023	FY 2023/2024
Partner	\$ 266	\$ 266	\$ 266	\$ 274	\$ 282
Manager	176	176	176	81	187
Senior Accountant	133	133	133	137	141
Staff Accountant	119	119	119	123	126
Clerical	Inluded	Inluded	Inluded	Inluded	Inluded
Other	Inluded	Inluded	Inluded	Inluded	Inluded

If it should become necessary for the City to request additional services, such additional work will be performed in an addendum to the contract between the City and LSL using the schedule of hourly rates above.

Name of Firm: Lance, Soll & Lunghard LLP

Authorized Signature: 

Name of Authorized Person: Richard K. Kikuchi, CPA

Title: Managing Partner

Address: 203 N. Brea Blvd, Suite 203

City/State/Zip: Brea, CA 92870

Telephone: 714-672-0022

Email: [Richard.Kikuchi@lsllcpas.com](mailto:Richard.Kikuchi@lsllcpas.com)



**EXHIBIT C**  
**SCOPE OF SERVICES**  
**CITY RFP 1195-19**

# REQUEST FOR PROPOSALS #1195-19 - PROFESSIONAL AUDITING SERVICES

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# CITY OF MANHATTAN BEACH

## RFP #1195-19 - PROFESSIONAL AUDITING SERVICES

### I. INTRODUCTION

#### A. General Information

The City of Manhattan Beach is requesting proposals from qualified certified public accountant firms to audit its financial statements for three fiscal years beginning with the fiscal year ending June 30, 2019, in addition to performing other financial audits and reviews as specified below. These audits are to be performed in accordance with auditing standards generally accepted in the United States of America, the standards set forth for financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and the U.S. Office of Management and Budget (OMB) Circular A-133 *Audits of State and local Governments and Non-Profit Organizations* and Governmental Accounting Standards Board (GASB) pronouncements.

It is anticipated the selection of a firm will be completed by February 5, 2019.

#### B. Term of Engagement

It is the intent of the City to contract for the services presented herein for a term of three (3) years with the option of extending the contract for the one (1) two-year extension. The proposal package shall present all-inclusive audit fees for each year of the contract term.

### II. NATURE OF SERVICES REQUIRED

#### A. Scope of the Work to be Performed

The City of Manhattan Beach desires a Comprehensive Annual Financial Report (CAFR) and its component unit financial statements for the City of Manhattan Beach to be prepared by the independent auditor and be fully compliant with all current GASB pronouncements. The audit firm shall prepare the CAFR in accordance with guidelines from the Government Finance Officers Association (GFOA) in order to obtain the Certificate of Achievement for Excellence in Financial Reporting as well as respond to all GFOA comments. The City has received this award annually for over 20 years.

The selected independent auditor will be required to perform the following tasks:

The audit firm will perform an audit of all funds of the City of Manhattan Beach. The audit will be conducted in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller of the United States. The City's Comprehensive Annual

Financial Report (CAFR), including all schedules, footnotes, Required Supplemental Information, etc. will be prepared by the selected Audit Firm. The CAFR will be in full compliance with all current GASB pronouncements. The audit firm will render their auditors' report on the basic financial statements which will include both Government-Wide Financial Statements and Fund Financial Statements. The audit firm will also apply limited audit procedures to Management's Discussion and Analysis and required supplementary information pertaining to the General Fund and each major fund of the City.

The audit firm will perform a Single Audit on the expenditures of federal grants in accordance with OMB Circular A-133 and render the appropriate audit reports on Internal Control over Financial Reporting based upon the audit of the City's financial statements in accordance with *Government Auditing Standards* and the appropriate reports on compliance with Requirements Applicable to each Major Program, Internal Control over Compliance and on the Schedule of Expenditures of Federal Awards in Accordance with OMB Circular A-133. The Single Audit report will include an appropriate schedule of expenditures of federal awards, footnotes, findings and questioned costs, including reportable conditions and material weaknesses, and follow up on prior audit findings where required.

The audit firm shall issue a separate "management letter" that includes recommendations for improvements in internal control, accounting procedures and other significant observations that are considered to be non-reportable conditions. Management letters shall be addressed to the City Manager.

## B. Auditing Standards to be Followed

To meet the requirements of this Request for Proposals, the audit shall be performed in accordance with:

1. Generally accepted auditing standards as set forth by the American Institute of Certified Public Accounts;
2. The standards applicable to financial audits contained in the most current version of the Generally Accepted *Government Auditing Standards* (Yellow Book), issued by the Comptroller General of the United States;
3. The provisions of the Single Audit Act as amended in 1996; and
4. The provisions of U.S. Office of Management and Budget (OMB) Circular A-133, *Audits of State and Local Governments and Non-Profit Organizations*.

## C. Working Paper Retention

All working papers and reports must be retained at the auditor's expense for a minimum of seven (7) years, unless the firm is notified in writing by the City of Manhattan Beach of the need to extend the retention period. The auditor will be

required to make working papers, either electronic or hard copy, must be available to the City of Manhattan Beach or any government agencies included in the audit of federal grants. In addition, the firm shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.

#### D. Irregularities and Illegal Acts

---

Auditors shall be required to make an immediate, written report of all irregularities and illegal acts or indications of illegal acts of which they become aware to the following parties: City Manager, City Attorney, and the Finance Director.

### III. DESCRIPTION OF THE GOVERNMENT

#### A. Background Information

The City of Manhattan Beach is located in South Bay region of Los Angeles County. The current population is 35,488. The City encompasses approximately four square miles.

Incorporated in 1912 under the general laws of the State of California, the city operates under the Council-Manager form of government. The City Council is comprised of five members elected at-large for overlapping four-year terms. Each member may serve as Mayor for a nine month period once during his or her four year term in office. The City Treasurer is also elected to a four year term, and serves as the chairperson for the Finance Subcommittee. City Councilmembers are limited to two consecutive terms.

The City Council is responsible for, among other things, passing ordinances, adopting the budget, appointing committees, and appointing the City Manager and City Attorney. The City Councilmembers also serve as the governing body of the Manhattan Beach Capital Improvements Corporation.

In addition, the City Council appoints the members of the following advisory Boards and Commissions:

Planning Commission	Parking and Public Improvements Commission
Board of Building Appeals	Parks & Recreation Commission
Library Commission	Business Improvement District Advisory Boards
Cultural Arts Commission	

The city is a full-service municipality, and provides a variety of services to the community, including:

Police services	Fire and paramedic services
-----------------	-----------------------------

Culture and recreation	Building and safety
Solid waste and recycling	Water and waste water utilities
Storm water management	Parking facilities
Street and landscape maintenance	General government

The City does not/did not have a Redevelopment Agency.

The City of Manhattan Beach's total budget in FY 2017-18 is approximately \$125.7 million for all funds combined. The General Fund totals approximately \$70 million of that total. The City's fiscal year begins on July 1 and ends on June 30.

## B. Fund Structure

The City of Manhattan Beach currently uses the following fund types in its financial reporting. The number and type of funds are subject to change based on the needs of the City. Any such change shall not result in change in the audit fee.

### Number of Individual Funds by Type

#### Government Funds

General Fund	1
Special Revenue Funds	10
Capital Project Funds	3
<b>Total Government Funds</b>	<b>14</b>

#### Business Type Funds

Enterprise Funds	7
Internal Service Funds	4
<b>Total Business Type Funds</b>	<b>11</b>

#### Agency Funds

Agency	4
<b>Total Funds</b>	<b>29</b>

## C. Pension Plans

The City participates in the State of California Public Employees' Retirement System (PERS), an agent multiple-employer retirement system. The City also maintains a defined contribution plan for employees not covered by PERS, such as part time employees. There are a total of four CalPERS plans: Police (3%@50) and Fire (3%@55) both of which are pooled with other agencies, PEPRSA Safety (2.7% at 57), and one standalone plan for Miscellaneous employees (2%@55) with PEPRSA

Miscellaneous (2%@62) rolled in.

#### D. Magnitude of Finance Operations

The Finance Department consists of 20 employees. The principal functions performed are accounting, accounts payable, accounts receivable, business license administration, payroll, cash management, investments, budgeting, financial reporting, cashiering, utility billing, film permits, purchasing, and warehousing.

#### E. Computer Systems

The City's Enterprise Financial System runs on a Local Area Network (LAN). The accounting functions use Eden Systems (Tyler Technology on an SQL database platform). The applications operating on this system are general ledger, accounts payable, accounts receivable, payroll, purchasing, licensing, utility billing and human resources.

#### F. Availability of Prior Reports and Work Papers

The firm of Lance, Soll and Lunghard conducted the City's most recent audit. The work papers of the previous audits are the property of the previous auditor and can be reviewed by the successful Proposer. The City of Manhattan Beach Comprehensive Annual Financial Reports are available for review on the City's website at <http://www.citymb.info/departments/finance/budget-and-accounting/financial-reports>.

### IV. TIME REQUIREMENTS

#### A. Proposal Calendar

The following is a list of tentative key dates including the due date for proposals to be submitted:

November 14, 2018	Request for proposal issued
November 26, 2018	Questions Due
December 10, 2018	Due date for proposals
TBD	Oral Interviews (conducted at City's discretion)
February 5, 2019	Firm selected (City Council Meeting)

#### B. Date Audit May Commence

Audit planning, documentation of systems of internal control and compliance and transaction testing should be completed during interim audit stage in March or April of each year. The City closes its books in September and will be ready for

audit field work to commence by the middle of October of each year.

### **C. Date Reports Are Due**

The auditor shall provide all drafts and recommendations for improvements to the Finance Director within a reasonable time period after the last day of field work. The auditor should be available for any meetings that may be necessary to discuss the draft audit reports. Included in the contract price, is attendance by the auditor at up to three (3) public meetings to present and discuss its findings and recommendations. Once all issues of discussion are resolved, the completed CAFR, Single Audit report, and other reports shall be delivered to the Finance Director. This process will be completed and the final products be delivered by November 30 of each year.

## **V. ASSISTANCE TO BE PROVIDED TO THE AUDITOR AND REPORT PREPARATION**

### **A. Finance Department Assistance**

Finance Department staff will be available during the audit to assist the firm by providing information, documentation, and explanations.

### **B. Work Area, Telephone, and Office Equipment**

The City will provide the auditor with reasonable work space, desks, and chairs. The auditor will also be provided with access to a telephone and photocopying machines. Only unsecure Internet access will be provided due to restrictions on access to secure City networks.

### **C. Report Preparation**

Report preparation, editing, printing, tabbing, and binding shall be the responsibility of the City. However, the City is interested in discussing having the selected Audit Firm perform that work for City Review. If the firm is required to prepare the report, the quantities will be as follows:

1. Comprehensive Annual Financial Report (10 copies & digital file in searchable Adobe Acrobat format)
2. Single Audit Report (digital file in searchable Adobe Acrobat format)

## **VI. PROPOSAL REQUIREMENTS**

### **A. General Requirements/Conditions**

1. Submission of Proposal. Six (6) copies of the proposal shall be received by the City of Manhattan Beach by the deadline listed on the coversheet. Additionally, firm



must supply a copy of the proposed response and any supporting documents on labeled media (Company name). The electronic copy must be in searchable PDF format as a single document (optimized and compressed). The naming convention for the file is "1195-19 Company Name". An electronic copy will not be accepted in lieu of the hard copies required.

Failure to comply with these instructions may render the proposal non-responsive.

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2. The Proposal should address the items listed in sections C and D below. The City reserves the right to reject any or all proposals submitted.
3. There is no expressed or implied obligation for the City of Manhattan Beach to reimburse responding firms for any expenses incurred in preparing proposals in response to this request. Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code Sec. 6250 et seq.), unless exempt.
4. The City reserves the right to retain all proposals submitted and to use any idea(s) in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in the request for proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the City of Manhattan Beach and the firm selected.

## B. Format for Technical Proposal

The proposal shall be no more than thirty (30) pages double-sided, excluding title page, table of contents, dividers, resumes, schedule and examples. Proposals failing to provide sufficient information and assurances of performance to accurately assess the required services and failing to comply with requirements and conditions of the RFP may not be given further consideration. The proposal shall include, at a minimum, the following information listed below in the same order as requested:

1. Title Page showing the request for proposals subject; the firm's name; the name, address, telephone number and email address of the contact person; and the date of the proposal. Briefly state understanding of the work to be done and the commitment to perform the work within the time period
2. Table of Contents identifying the materials submitted by section and page number. Cross-referencing to section and page number in the RFP would be helpful.
3. Detailed Proposal following the order set forth in Section C below.

## C. Contents of Technical Proposal

The purpose of the Technical Proposal is to demonstrate the qualifications, competence and capacity of the firm seeking to undertake an independent audit of the City in conformity with the requirements of this request for proposals. As such,



the substance of proposals will carry more weight than the form or manner of presentation. The Technical Proposal should demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement. It should also specify an audit approach that will meet the request for proposals requirements.

The Technical Proposal should address all points outlined in the request for proposals. The proposal should be prepared simply and economically, providing a straightforward, concise description of the proposer's capabilities to satisfy the requirements of this request for proposals. While additional data may be presented, the following subjects must be included. They represent the criteria against which the proposal will be evaluated.

#### 1. License to Practice in California

An affirmative statement shall be included verifying the firm and all assigned key professional staff are properly licensed to practice in California.

#### 2. Independence

The firm shall provide an affirmative statement that it is independent of the City of Manhattan Beach as defined by auditing standards generally accepted in the United States of America and the General Accounting Office's *Government Auditing Standards*.

#### 3. Firm Qualifications and Experience

To qualify the firm must have extensive experience in audits of local governments as well as experience with preparation of Comprehensive Annual Financial Statements prepared in accordance with generally accepted accounting principles (GAAP). The Proposer should state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed, and the number and nature of the professional staff to be employed in this engagement on a full-time basis and the number and nature of the staff to be so employed on a part-time basis. Staff consistency is an important consideration, although annual rotation of audit managers may be desirable and considered.

The Proposer must provide a list of all current municipal clients.

The Proposer is also required to submit a copy of a report on its most recent external quality control review (peer review), with a statement whether that quality control review included a review of specific government engagements (required by current Government Audit Standards).

The Proposer shall also provide information on the results of any Federal or State desk reviews or field reviews of its audits during the past three (3) years. The RFP for Professional Auditing Services Proposer shall provide information on the

circumstances and status of any disciplinary action taken or pending against the firm during the past three (3) years with State regulatory bodies or professional organizations.

#### 4. Partner, Supervisory and Staff Qualifications and Experience

Identify the principal supervisory and management staff, including engagement partners, managers, other supervisors and specialists who would be assigned to this engagement. Include resumes, indicating whether each such person is registered or licensed to practice as a certified public accountant in California. Provide information on the government auditing experience of each person, including information on relevant continuing professional education for the past three (3) years and membership in professional organizations relevant to the performance of this audit.

Provide as much information as possible regarding the number, qualifications, experience and training, including relevant continuing professional education, of the specific staff to be assigned to this engagement. Indicate how the quality of staff over the term of the agreement will be assured.

Engagement partners, managers, other supervisory staff, and specialists may be changed if those personnel leave the firm, are promoted or are assigned to another office. These personnel may also be changed for other reasons with the express prior written permission of the City. However, in either case, the City retains the right to approve or reject replacements.

Other audit personnel may be changed at the discretion of the Proposer provided that replacements have substantially the same or better qualifications or experience.

#### 5. Similar Engagements with Other Government Entities

For the firm's office that will be assigned responsibility for the audit, list the most significant engagements (maximum - 5) performed in the last three (3) years that are similar to the engagement described in this request for proposals. These engagements should be ranked on the basis of total staff hours. Indicate the scope of work, date, engagement partners, total hours, and the name and telephone number of the principal client contact. Also please indicate whether the audit was part of a Comprehensive Annual Financial Report prepared in conformance with GAAP requirements. Information should be provided regarding clients that the firm serves that have received the GFOA award.

Please provide a list of not less than five client references for who services similar to those outlined in the RFP are currently being provided. For each reference listed provide the name of the organization, dates for which the service(s) are being provided, type of service(s) being provided and the name, address, telephone number and email address of the responsible person within the reference's

organization. The City reserves the right to contact any or all of the listed references regarding the audit services performed by the Proposer. These references will be checked and may affect the award of the contract. The City of Manhattan Beach reserves the right to contract any of the organizations or individuals listed or any others that may stem from the inquiry.

#### 6. Specific Audit Approach

The proposal should set forth a work plan, including an explanation of the audit methodology to be followed, to perform the services required in Section II of this request for proposals. In developing the work plan, reference should be made to such sources of information as the City of Manhattan Beach Budget and related materials, organizational charts, manuals, programs, and financial and other management information systems.

Proposers will be required to provide the following information on their audit approach:

- a. Proposed segmentation for the engagement;
- b. Level of staff and number of hours to be assigned to each proposed segment of the engagement;
- c. Sample size and the extent to which statistical sampling is to be used in this engagement;
- d. Type and extent of analytical procedures to be used in this engagement;
- e. Approach to be taken to gain and document an understanding of the City's internal control structure;
- f. Approach to be taken in determining laws and regulations that will be subject to audit test work; and
- g. Approach to be taken in drawing audit samples for purposes of tests of compliance.

#### 7. Identification of Anticipated Potential Audit Problems

The proposal should identify and describe any anticipated potential audit problems, the firm's approach to resolving these problems and any special assistance that will be requested from the City.

### D. Contents of Cost Proposal

#### 1. Total All-Inclusive Maximum Price

The cost proposal should contain all detailed pricing information relative to performing the audit engagement as described in this request for proposals. The total all-inclusive maximum price to be bid is to contain all direct and indirect costs including all out-of-pocket expenses. The cost proposal should be submitted in the

format provided in Attachment A, "AUDIT WORK COST PROPOSAL FORM AND ESTIMATE OF COST." Any additional work outside the scope of work will be based on the hourly rates supplied in Attachment A.

## 2. Manner of Payment

Progress payments will be made on the basis work completed during the course of the engagement and out-of-pocket expenses (for hourly rate work) incurred in accordance with the firm's proposal. Interim billings shall cover a period of not less than a calendar month.

## VII. EVALUATION PROCEDURES

### A. Review of Proposals

City Staff and members of the City's Finance Subcommittee (comprised of the City Treasurer and two City Councilmembers) will evaluate submitted proposals.

During the evaluation process, the City of Manhattan Beach reserves the right, where it may serve the City's best interest, to request additional information or clarification from proposers, or to allow corrections of errors or omissions. At the discretion of the City of Manhattan Beach, firms submitting proposals may be requested to make oral presentations as part of the evaluation process.

Following the notification of the selected firm, a recommendation and proposed contract will be prepared for review and approval by the City Council. The City reserves the right to reject any or all proposals, to waive any non-material irregularities or information in any proposal, and to accept or reject any items or combination of items.

### B. Evaluation Criteria

Firms meeting the mandatory criteria will have their proposals evaluated and scored for both technical qualifications and price. The following represent the principal selection criteria, which will be considered during the evaluation process.

1. Mandatory Elements:
  - a. The audit firm is independent and licensed to practice in California.
  - b. The firm has no conflict of interest with regard to any of the work performed by the firm for the City.
  - c. The firm adheres to the instructions in this request for proposals on preparing and submitting the proposal.
  - d. The firm submits a copy of its last external quality control review report and the firm has a record of quality audit work.
  - e. The firm's past experience and performance on comparable government

engagements.

- f. The quality of the firm's professional personnel to be assigned to the engagement and the quality of the firm's management support personnel to be available for technical consultation.
  - g. Adequacy of proposed staffing plan for various segments of the engagement.
  - h. Thoroughness of approach to conducting the audit of the City and demonstration of the understanding of the objectives and scope of the audit.
  - i. Commitment to timeliness in the conduct of the audit.
  - j. Costs to conduct the audit.
-







# CERTIFICATE OF LIABILITY INSURANCE

LANCSO1

OP ID: JT

DATE (MM/DD/YYYY)

02/26/2019

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

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

<b>PRODUCER</b> Liberty Mitchell & Mitchell 250 Bel Marin Keys E1 Novato, CA 94949 Gustavo Ruano	<b>CONTACT NAME:</b> Jose Tapia	
	<b>PHONE (A/C, No, Ext):</b> 415-883-2525	<b>FAX (A/C, No):</b> 415-883-7752
	<b>E-MAIL ADDRESS:</b> JTapia@MitchellAndMitchell.com	
	<b>INSURER(S) AFFORDING COVERAGE</b>	<b>NAIC #</b>
	<b>INSURER A:</b> Sentinel Insurance Company	11000
	<b>INSURER B:</b> Continental Casualty Company	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

<b>INSURED</b> Lance, Soll & Lunghard, LLP 203 N Brea Blvd Ste 203 Brea, CA 92821-4056	
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**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**


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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	57SBABI6404	10/12/2018	10/12/2019	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X		57SBABI6404	10/12/2018	10/12/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10000			57SBABI6404	10/12/2018	10/12/2019	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	<b>PROFESSIONAL LIABILITY (E&amp;O)</b>			APL 275513554	10/12/2018	10/12/2019	PER CLAIM 3,000,000 AGGREGATE 3,000,000

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

Re: Operations of the Named Insured as on File with the Insurance Carrier.  
City, its Officers, Officials, Employees, Designated Volunteers and Agents serving as Independent Contractors in the Role of City Officials are Named as Additional Insured per General Liability Coverage Form SS 00 08 04 05.  
Coverage is Primary & Non-Contributory and Waiver of Subrogation Applies.

**CERTIFICATE HOLDER****CANCELLATION**

<b>INSURED</b>  City of Manhattan Beach 1400 Highland Avenue Manhattan Beach, CA 90266	<b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b>  <b>AUTHORIZED REPRESENTATIVE</b> 
--	---

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**NOTEPAD:**

HOLDER CODE **INSURED**  
INSURED'S NAME **Lance, Soll & Lunghard, LLP**

**LANCSO1**  
OP ID: JT

PAGE 2  
Date **02/26/2019**

City, Its Officers, Officials, Employees, Designated Volunteers and Agents serving as Independent Contractors in the Role of City Officials are Named as Additional Insured with respects to General Liability Coverage Arising out of the Activities Performed by or on behalf of Contractor; Products and Completed Operations of Contractor, Premises Owned, Occupied or Used by Contractor; or Automobiles Owned, Leased, Hired or Borrowed by Contractor. The Coverage shall Contain No Limitations on the Scope of Protection Afforded to City, Its Officers, Officials, Employees, Designated Volunteers or Agents serving as Independent Contractors in the Role of City Officials which are not also Limitations Applicable to the Named Insured.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
02/25/2019

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

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

<b>PRODUCER</b>  Chuck Hyneman 18371-A Lemon Drive Yorba Linda, CA 92886	<b>CONTACT NAME:</b> Chuck Hyneman	
	<b>PHONE (A/C, NO, EXT):</b> 714-777-9823	<b>FAX (A/C, NO):</b> 714-777-9898
	<b>E-MAIL ADDRESS:</b>	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b>  Kikuchi, Richard (Gen Partner) Soll, Lance (Gen Partner) 203 N Brea Blvd#203 Brea, CA 92821	<b>INSURER A:</b> Truck Insurance Exchange	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	
	<b>NAIC #</b> 21709	

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

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

INSR LTR	TYPE OF INSURANCE	ADDTL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	<b>COMMERCIAL GENERAL LIABILITY</b>						EACH OCCURRENCE	\$
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea Occurrence)	\$
							MED EXP (Any one person)	\$
							PERSONAL & ADV INJURY	\$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG	\$
	OTHER:							\$
	<b>AUTOMOBILE LIABILITY</b>						COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> OWNED AUTOS ONLY						BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS							\$
	<input type="checkbox"/> NON-OWNED AUTOS ONLY							\$
	<b>UMBRELLA LIAB</b>						EACH OCCURRENCE	\$
	<input type="checkbox"/> OCCUR						AGGREGATE	\$
	<b>EXCESS LIAB</b>							\$
	<input type="checkbox"/> CLAIMS-MADE							\$
	DED <input type="checkbox"/> RETENTION \$							\$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>						<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER	\$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y/N	N/A	Y	A2009 84 07	10/01/2018	E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000

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

**CERTIFICATE HOLDER**City of Manhattan Beach  
1400 Highland Avenue  
Manhattan Beach, CA 90266**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





WC 99 06 19

## WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

Named • KIKUCHI, RICHARD (GEN PRTNR)  
Insured • \*KIKUCHI, RICHARD (GEN PRTNR) \*SOLL, LANCE (GEN PRTNR)  
• 203 N BREA BLVD # 203  
• BREA CA 92821

Effective  
Date 10/01/18

Agent  
97-50-384

B2009-84-07 2018  
Policy Number Policy  
of the Company Year

### WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - BLANKET

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 for which you perform work under a written contract that requires you to obtain this agreement from us.

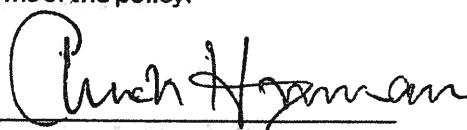
The additional premium for this endorsement shall be 3.0 % of the Workers' Compensation premium otherwise due for the state(s) listed below on such remuneration, subject to a minimum charge of \_\_\_\_\_.

All written contracts in the state(s) of.

CA

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all the terms of the policy.

Countersigned

  
Authorized Representative



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## **BUSINESS LIABILITY COVERAGE FORM**

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

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





## BUSINESS LIABILITY COVERAGE FORM

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

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

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

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

### A. COVERAGES

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

##### Insuring Agreement

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

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

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

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

b. This insurance applies:

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

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

(b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph 1. of Section C. - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

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

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

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

## BUSINESS LIABILITY COVERAGE FORM

- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
  - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

e. **Incidental Medical Malpractice**

- (1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:
  - (a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and
  - (b) You are not engaged in the business or occupation of providing such services.
- (2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

## 2. MEDICAL EXPENSES

### Insuring Agreement

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

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

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

## 3. COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS

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

Any amounts paid under (1) through (7) above will not reduce the limits of insurance.

## BUSINESS LIABILITY COVERAGE FORM

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

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

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

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

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

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

## B. EXCLUSIONS

### 1. Applicable To Business Liability Coverage

This insurance does not apply to:

#### a. Expected Or Intended Injury

- (1) "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or
- (2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

#### b. Contractual Liability

- (1) "Bodily injury" or "property damage"; or
- (2) "Personal and advertising injury"

for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

This exclusion does not apply to liability for damages because of:

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



## BUSINESS LIABILITY COVERAGE FORM

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

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

### c. Liquor Liability

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

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

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

### d. Workers' Compensation And Similar Laws

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

### e. Employer's Liability

"Bodily injury" to:

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

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

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

This exclusion applies:

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

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

### f. Pollution

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

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

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

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

## BUSINESS LIABILITY COVERAGE FORM

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

## BUSINESS LIABILITY COVERAGE FORM

### g. Aircraft, Auto Or Watercraft

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

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

This exclusion does not apply to:

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

### h. Mobile Equipment

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

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

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

### i. War

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

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

### j. Professional Services

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

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

## BUSINESS LIABILITY COVERAGE FORM

(8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products;

(9) Any:

(a) Body piercing (not including ear piercing);

(b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and

(c) Similar services;

(10) Services in the practice of pharmacy; and

(11) Computer consulting, design or programming services, including web site design.

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

### k. Damage To Property

"Property damage" to:

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

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

(3) Property loaned to you;

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

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

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

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

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

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

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

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

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

### l. Damage To Your Product

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

### m. Damage To Your Work

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

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

### n. Damage To Impaired Property Or Property Not Physically Injured

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

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

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



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### **o. Recall Of Products, Work Or Impaired Property**

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

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

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

### **p. Personal And Advertising Injury**

"Personal and advertising injury":

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

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

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

(c) Title of any literary or artistic work;

(8) Arising out of an offense committed by an insured whose business is:

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

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

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

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

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

(12) Arising out of:

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

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

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

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

**q. Electronic Data**

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

**r. Employment-Related Practices**

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

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**s. Asbestos**

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".

(2) Any damages, judgments, settlements, loss, costs or expenses that

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

(b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or

(c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

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

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

(1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;

(2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or

(3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

**Damage To Premises Rented To You - Exception For Damage By Fire, Lightning or Explosion**

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

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### 2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

#### a. Any Insured

To any insured, except "volunteer workers".

#### b. Hired Person

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

#### c. Injury On Normally Occupied Premises

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

#### d. Workers' Compensation And Similar Laws

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

#### e. Athletics Activities

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

#### f. Products-Completed Operations Hazard

Included with the "products-completed operations hazard".

#### g. Business Liability Exclusions

Excluded under Business Liability Coverage.

## C. WHO IS AN INSURED

### 1. If you are designated in the Declarations as:

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

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

### 2. Each of the following is also an insured:

#### a. Employees And Volunteer Workers

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

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

#### (1) "Bodily injury" or "personal and advertising injury":

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

(b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph (1)(a) above;

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

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

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

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

(a) Owned, occupied or used by,



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

### **b. Real Estate Manager**

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

### **c. Temporary Custodians Of Your Property**

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

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

### **d. Legal Representative If You Die**

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

### **e. Unnamed Subsidiary**

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

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

### **3. Newly Acquired Or Formed Organization**

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

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

- b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or

- (2) "Personal and advertising injury" arising out of an offense committed

before you acquired or formed the organization.

### **4. Operator Of Mobile Equipment**

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

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or

- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

### **5. Operator of Nonowned Watercraft**

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

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

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or

- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

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

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

## BUSINESS LIABILITY COVERAGE FORM

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

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

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

### a. Vendors

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

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

This insurance does not apply to:

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

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

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

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

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

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

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

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

### b. Lessors Of Equipment

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

## BUSINESS LIABILITY COVERAGE FORM

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

### c. Lessors Of Land Or Premises

- (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
- (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
  - (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

### d. Architects, Engineers Or Surveyors

- (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf.
- (a) In connection with your premises; or
  - (b) In the performance of your ongoing operations performed by you or on your behalf.
- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:
- This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:
- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
  - (b) Supervisory, inspection, architectural or engineering activities.

### e. Permits Issued By State Or Political Subdivisions

- (1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
- (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
  - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

### f. Any Other Party

- (1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf.
- (a) In the performance of your ongoing operations;
  - (b) In connection with your premises owned by or rented to you; or
  - (c) In connection with "your work" and included within the "products-completed operations hazard", but only if
    - (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and
    - (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
- "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:



## BUSINESS LIABILITY COVERAGE FORM

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

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

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

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

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

### D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

#### 1. The Most We Will Pay

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

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

#### 2. Aggregate Limits

The most we will pay for:

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

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

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

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

#### 3. Each Occurrence Limit

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

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

#### 4. Personal And Advertising Injury Limit

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

#### 5. Damage To Premises Rented To You Limit

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

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

#### 6. How Limits Apply To Additional Insureds

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

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

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



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

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

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

### **1. Bankruptcy**

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

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

#### **a. Notice Of Occurrence Or Offense**

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

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

#### **b. Notice Of Claim**

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

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

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

#### **c. Assistance And Cooperation Of The Insured**

You and any other involved insured must:

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

### **d. Obligations At The Insured's Own Cost**

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

### **e. Additional Insured's Other Insurance**

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

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

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

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

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

## BUSINESS LIABILITY COVERAGE FORM

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

### 3. Financial Responsibility Laws

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

### 4. Legal Action Against Us

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

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

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

### 5. Separation Of Insureds

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

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

### 6. Representations

#### a. When You Accept This Policy

By accepting this policy, you agree:

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

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

#### b. Unintentional Failure To Disclose Hazards

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

### 7. Other Insurance

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

#### a. Primary Insurance

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

#### b. Excess Insurance

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

##### (1) Your Work

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

##### (2) Premises Rented To You

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

##### (3) Tenant Liability

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

##### (4) Aircraft, Auto Or Watercraft

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

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

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

## BUSINESS LIABILITY COVERAGE FORM

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

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

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

That is other insurance available to an additional insured.

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

**(a) Primary Insurance When Required By Contract**

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

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

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

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

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

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

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

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

**c. Method Of Sharing**

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

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

**8. Transfer Of Rights Of Recovery Against Others To Us**

**a. Transfer Of Rights Of Recovery**

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

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

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



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### F. OPTIONAL ADDITIONAL INSURED COVERAGES

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

#### 1. Additional Insured - Designated Person Or Organization

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

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

#### 2. Additional Insured - Managers Or Lessors Of Premises

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

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

This insurance does not apply to:

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

#### 3. Additional Insured - Grantor Of Franchise

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

#### 4. Additional Insured - Lessor Of Leased Equipment

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

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

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

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

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

This insurance does not apply to:

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

#### 6. Additional Insured - State Or Political Subdivision - Permits

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

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

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

This insurance does not apply to:

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

**7. Additional Insured – Vendors**

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

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

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

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

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

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

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

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

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

**8. Additional Insured – Controlling Interest**

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

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

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

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

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

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

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

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

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

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

### 10. Additional Insured – Co-Owner Of Insured Premises

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

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

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

## G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

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

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

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

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

However, "advertisement" does not include:

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

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

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

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

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

5. "Bodily injury" means physical:

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

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

6. "Coverage territory" means:



## BUSINESS LIABILITY COVERAGE FORM

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above;
  - c. All other parts of the world if the injury or damage arises out of:
    - (1) Goods or products made or sold by you in the territory described in a. above;
    - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
    - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication
- provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.
- 7. "Electronic data" means information, facts or programs:
    - a. Stored as or on;
    - b. Created or used on; or
    - c. Transmitted to or fromcomputer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
  - 8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
  - 9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
  - 10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
  - 11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
    - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - b. You have failed to fulfill the terms of a contract or agreement;  
if such property can be restored to use by:
    - a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
    - b. Your fulfilling the terms of the contract or agreement.
12. "Insured contract" means:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section D. – Liability and Medical Expenses Limits of Insurance.
  - b. A sidetrack agreement;
  - c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
  - d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  - e. An elevator maintenance agreement; or
  - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- Paragraph f. includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.
- However, Paragraph f. does not include that part of any contract or agreement:



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

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- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies, committed by or on behalf of its owner, landlord or lessor;
  - d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. Oral, written or electronic publication of material that violates a person's right of privacy;
  - f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";
  - g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or
  - h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.
18. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
19. "Products-completed operations hazard";
- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
    - (1) Products that are still in your physical possession; or
    - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:
      - (a) When all of the work called for in your contract has been completed.
      - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
      - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

- b. Does not include "bodily injury" or "property damage" arising out of:
    - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or
    - (2) The existence of tools, uninstalled equipment or abandoned or unused materials.
20. "Property damage" means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
  - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.
- As used in this definition, "electronic data" is not tangible property.
21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
23. "Volunteer worker" means a person who:
- a. Is not your "employee";

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

### 24. "Your product":

#### a. Means:

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

#### b. Includes:

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

- (2) The providing of or failure to provide warnings or instructions.

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


### 25. "Your work":

#### a. Means:

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

#### b. Includes:

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

<b>State of California</b> <b>Bill Jones</b> <b>Secretary of State</b>	File # <u>292000019001</u>  <div style="text-align: center;"> <b>FILED</b>          In the Office of the Secretary of State          of the State of California   <b>APR 26 2000</b>     <b>BILL JONES, Secretary of State</b> </div>
<b>REGISTERED LIMITED LIABILITY PARTNERSHIP REGISTRATION</b>  <b>A \$70.00 filing fee must accompany this form.</b> <b>IMPORTANT - Read instructions before completing this form.</b>	
This Space For Filing Use Only	
1. Name of the registered limited liability partnership or foreign limited liability partnership: (End the name with the word "Registered Limited Liability Partnership" or "Limited Liability Partnership" or one of the abbreviations "LLP", "LLP", "RLLP", or "RLLP") <u>Lance, Soll &amp; Lunghard, LLP</u>	
2. <input checked="" type="checkbox"/> Domestic (California)      OR <input type="checkbox"/> Foreign (Not in California)	3. Jurisdiction <u>California</u>
4. Address of the principal office:      City      State      Zip Code <u>203 North Brea Boulevard</u> <u>Brea</u> <u>California</u> <u>92821-4056</u>	
5. Name the agent for service of process in this state and check the appropriate provision below: <u>Brandon W. Burrows</u> , which is <input checked="" type="checkbox"/> an individual residing in California. Proceed to item 6. <input type="checkbox"/> a corporation which has filed a certificate pursuant to California Corporations Code Section 1505. Proceed to item 7.	
6. If an individual, California address of the agent for service of process: Address <u>City 203 North Brea Blvd., Brea</u> State <u>CA</u> Zip Code <u>92821</u>	
7. Indicate the business in which the limited liability partnership shall engage; (check one) <input type="checkbox"/> Practice of Architecture <input checked="" type="checkbox"/> Practice of Public Accountancy <input type="checkbox"/> Practice of Law <input type="checkbox"/> Related: _____	
8. By filing this Registered Limited Liability Partnership (LLP-1) with the Secretary of State, the partnership named above is registering as a domestic registered limited liability partnership or foreign limited liability partnership. (DO NOT ALTER)	
9. Indicate whether the limited liability partnership is complying with the alternative security provisions: <input type="checkbox"/> Yes. Attach Alternative Security Provision (LLP-3) <input checked="" type="checkbox"/> No	
10. Future Effective Date, if any      Month      Day      Year	
11. Other matters to be included in this registration may be set forth on separate attached pages and are made a part of this registration.	
12. Total number of pages attached, if any:      0	
13. Declaration: I declare that I am the person who executed this instrument, which execution is my act and deed.	
<u>Brandon W. Burrows</u> Signature of Authorized Partner/Person	<u>Brandon W. Burrows</u> <u>4/17/00</u> Type or Print Name of Authorized Partner/Person      Date
14. RETURN TO:	
NAME <u>Brandon W. Burrows</u> FIRM <u>Lance, Soll &amp; Lunghard, LLP</u> ADDRESS <u>203 North Brea Blvd.</u> CITY/STATE <u>Brea, California</u> ZIP CODE <u>92821-4056</u>	



**State of California  
Secretary of State**

**CERTIFICATE OF GOOD STANDING  
CALIFORNIA LIMITED LIABILITY PARTNERSHIP**

I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That on the 26th day of April, 2000, LANCE, SOLL & LUNGHARD, LLP, became recognized under the laws of the State of California by filing a certificate of registration in this office; and

That according to the records of this office, the said limited liability partnership is authorized to exercise all its powers, rights and privileges and is in good legal standing in the State of California; and

That no information is available in this office on the financial condition of this limited liability partnership.

**IN WITNESS WHEREOF**, I execute  
this certificate and affix the Great Seal  
of the State of California this day of  
April 3, 2014.



*Debra Bowen*

**DEBRA BOWEN**  
Secretary of State



Secretary of State  
Business Programs Division

1500 11<sup>th</sup> Street, 3<sup>rd</sup> Floor  
P.O. Box 944260  
Sacramento, CA 94244-2600

Certification and Records  
(916) 657-5448

### Fax Cover Letter

To: BRYAN GRUBER

ATTN:

Fax Number: 714-672-0331

Number of Pages (including cover): 3

Entity Name(s) and/or Number(s): LANCE SOLL & LUNGHARD LLP

### Message:

**Note:** This office cannot guarantee legible copies via fax. Copies to follow in mail.

From:	Certification and Records Business Entities Section
Date:	04-02-2014 4/3/14
Operator:	CMM <i>Cm</i>

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