

**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** AGENDA ITEM 6 - MEETING DATE May 11,2021  
**Date:** Friday, May 7, 2021 4:45:44 PM  
**Attachments:** [20-05.LisaWiseConsultingInc.PrepObjtvDesignStd.Agreement - signed.pdf](#)

---

Mayor Fligor and Council Members:

The staff report for [Item 6. Contract Amendment - Objective Standards](#) says:

On March 17, 2020, the City Council authorized a contract with the consultant team (Lisa Wise Consultant in conjunction with Opticos Design) to prepare objective zoning standards to help guide future development in the City based on recent changes to state law.<sup>1</sup> While the \$300,000 contract was approved by the City Council, a subcommittee composed of Councilmembers Bruins and Pepper was formed to iron out the project schedule and the final language of the agreement. After two meetings with the consultant team in April of 2020, the contract was ready for signature and fully executed by the City on April 30, 2020.

However, the actual amount of that contract (attached) was \$265,000:

**COMPENSATION.** CONSULTANT will perform the work outlined above and will invoice the CITY monthly. CONSULTANT's total compensation, including reimbursed expenses, for the services set forth for the Contract shall not exceed \$265,000 as outlined in Exhibit A. A contingency amount of \$35,000 has been authorized by the City Council but the contingency funds cannot be accessed unless a change order is submitted and approved by the Community Development Director.

It's important to distinguish between actual contract amounts and contingencies. While contingencies are important to consider, we can always hope they won't be necessary.

Thanks,

Pat Marriott



**PROFESSIONAL SERVICES AGREEMENT BETWEEN  
THE CITY OF LOS ALTOS, CALIFORNIA  
AND  
LISA WISE CONSULTING INC.,  
FOR CONSULTANTS TO PREPARE OBJECTIVE DESIGN STANDARDS**

**THIS AGREEMENT** is made and entered into as of the 30th day of April, 2020, by and between the CITY OF LOS ALTOS, a municipal corporation, hereinafter referred to as “**CITY**,” and Lisa Wise Consulting, Inc. (LWC), hereinafter referred to as “**CONSULTANT**.”

**RECITALS**

**WHEREAS**, CITY desires to retain a qualified consulting firm to prepare objective design standards; and

**WHEREAS**, CITY has determined that CONSULTANT possesses the skills, experience and certifications required to provide the services required by the CITY; and

**WHEREAS**, CONSULTANT is an independent consultant providing similar professional services to numerous other cities; and

**WHEREAS**, CITY desires to retain CONSULTANT to provide professional services under the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants, conditions and promises identified herein, the parties mutually agree as follow:

**1. SCOPE OF SERVICES.**

**A. CONSULTANT.** CONSULTANT shall assist the CITY by executing the following scope of services in a satisfactory and proper manner in accordance with requirements provided by the City Manager, or designee. Services will include, but not be limited to, the items noted in CONSULTANT’s proposal attached hereto and incorporated herein as Exhibit A.

**2. SCHEDULE.** Services of CONSULTANT are to commence upon the execution of this Agreement and shall continue in full force and effect until it is terminated. It is intended that the termination of this Agreement be contemporaneous with final acceptance of all services described in Exhibit A by the Los Altos City Manager, or designee. CONSULTANT shall meet the completion date as indicated on Exhibit A.

**3. TERM.** The term of this Agreement shall continue in full force and effect for the FY 19-20, FY 20-21 and 21-22 and can be extended for an additional two years for a total of five years. Changes

in Scope of Services and Payment Schedule, Exhibit A, can be amended, as needed, thirty (30) days prior to the expiration of each fiscal year and agreed to by both parties. If the Agreement is terminated, it is intended that the termination of the Agreement be contemporaneous with final acceptance of all services by CITY.

4. **COMPENSATION.** CONSULTANT will perform the work outlined above and will invoice the CITY monthly. CONSULTANT's total compensation, including reimbursed expenses, for the services set forth for the Contract shall not exceed \$265,000 as outlined in Exhibit A. A contingency amount of \$35,000 has been authorized by the City Council but the contingency funds cannot be accessed unless a change order is submitted and approved by the Community Development Director.

A. **Compensation.** The compensation shall be paid to CONSULTANT based on the following hourly rates guide:

Consultant	\$ /hour
Principal	\$275
Director	\$205
Senior Associate	\$180
Lead Associate	\$155
Associate	\$145

B. **Method of Payment.** As a condition precedent to any payment to CONSULTANT under this Agreement, CONSULTANT shall submit monthly to the CITY a statement of account which clearly sets forth the designated items of work for which the billing is submitted. Each statement of account shall also include a detailed record of the month's actual reimbursable expenditures.

CITY shall review CONSULTANT's monthly statement and pay CONSULTANT for services rendered hereunder at the rates if acceptable and in the amounts provided hereunder on a monthly basis in accordance with the approved monthly statements. Payment will be made according to the CITY's standard Payment Schedule and Terms.

5. **OWNERSHIP OF WORK.** All documents furnished to CONSULTANT by CITY and all reports and supportive data prepared by CONSULTANT by this Agreement are CITY's property, for the exclusive use of the CITY, shall be given to CITY at the completion of CONSULTANT services.

6. **COMPLIANCE WITH LAW.** CONSULTANT shall comply with all applicable federal, state and local laws, codes, ordinances and regulations, including Cal/OSHA requirements. CONSULTANT represents to CITY that it has, and will maintain through the term of the Agreement, all licenses, permits, qualifications, insurance and approvals of whatsoever nature, which are legally required for CONSULTANT to practice its profession. CONSULTANT shall maintain a City of Los Altos Business License.

7. **STANDARD OF CARE.** CONSULTANT's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level

of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

8. **INSURANCE.** CONSULTANT shall procure and maintain for the duration of the contract insurance as described in Exhibit B against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONSULTANT, its agents, representatives, employees or subcontractors.
9. **RELATIONSHIP BETWEEN THE PARTIES.** CONSULTANT is, and at all times shall remain, an independent contractor, not an agent or employee of the CITY. CONSULTANT shall be solely responsible for all acts of its employees, agents or sub-consultants, including any negligent acts or omissions. CONSULTANT shall have no authority to act on behalf of the CITY or to bind the CITY to any obligation whatsoever, unless the CITY provides prior written authorization to CONSULTANT. As an independent contractor, CONSULTANT shall not be entitled to any benefit, right or compensation from the CITY other than those provided for in this Agreement.
10. **INDEMNIFICATION.** To the fullest extent permitted by law, CONSULTANT shall defend (with counsel reasonably approved by CITY), indemnify and hold CITY, the City Council, members of the City Council, its employees, representatives, agents and volunteers harmless from any and all suits, damages, costs, fees, claims, demands, causes of action, liabilities, losses expenses, damage or injury of any kind, in law or equity, to property or persons, including wrongful death and financial losses (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of CONSULTANT or CONSULTANT'S officers, assistants, subcontractors, employees or agents in connection with the performance of CONSULTANT'S services or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses.

Notwithstanding the foregoing, to the extent CONSULTANT'S services are subject to Civil Code Section 2782.8, (Design Professionals) the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT. CONSULTANT'S obligation to indemnify shall not be restricted to insurance proceeds, if any, received by CITY, the City Council, members of the City Council, its employees, or authorized volunteers.

11. **CALIFORNIA LABOR CODE REQUIREMENTS.** CONSULTANT is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" or "maintenance" projects. If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, CONSULTANT agrees to fully comply with such Prevailing Wage Laws, if applicable. CONSULTANT shall defend, indemnify and hold the CITY, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the CONSULTANT and all sub-consultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5),

certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1).

If the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, CONSULTANT and all sub-consultants performing such services must be registered with the Department of Industrial Relations. CONSULTANT shall maintain registration for the duration of the Project and require the same of any sub-consultants, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be CONSULTANT's sole responsibility to comply with all applicable registration and labor compliance requirements.

12. **TERMINATION OF AGREEMENT.** Notwithstanding any other provision of this Agreement, the CITY may terminate this Agreement without cause at any time upon giving ten days written notice to CONSULTANT. In the event of such a termination, CONSULTANT shall be entitled to any compensation owed for services rendered up to the effective date of termination.
13. **MAINTENANCE OF RECORDS.** Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by CONSULTANT and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under this Agreement for inspection by CITY.
14. **ORGANIZATION.** CONSULTANT shall assign Monica Szydlik as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of CITY.
15. **WRITTEN NOTIFICATION.** Any notice, demand, request, consent, approval, or communications that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc., shall be addressed to the other part at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing it mailed as provided in this section.

**CITY:** City of Los Altos  
Christopher Jordan, City Manager  
1 N. San Antonio Road  
Los Altos, CA 94022

**CONSULTANT:** Lisa Wise  
President and Owner  
Lisa Wise Consulting, Inc.  
983 Osos Street  
San Luis Obispo, CA 93401  
lisa@lisawiseconsulting.com  
805-595-1345

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

17. **WAIVER.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision of the Agreement.
18. **NO IMPLIED WAIVERS.** The failure of either party at any time to require performance by the other party of any provisions hereof shall not affect in any way the full right to require such performance at any time thereafter. Nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.
19. **ASSIGNMENT.** The parties recognize that a substantial inducement to CITY for entering into this Agreement is the professional reputation, experience and competence of CONSULTANT. CONSULTANT, therefore, shall not assign, delegate, nor transfer any rights or obligations pursuant to this Agreement, except as specified in this Agreement, without the prior written consent of CITY. Any assignment of any right or obligation or subcontracting of any work without CITY consent shall be void and of no effect.
20. **TAXES.** CONSULTANT agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement, and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. CONSULTANT agrees to indemnify and hold CITY harmless from any liability which it may incur to the United States of America or the State of California as a consequence of CONSULTANT's failure to pay, when due, all such taxes and obligations. In the event CITY is audited for compliance regarding withholding or other applicable taxes, CONSULTANT agrees to furnish CITY with proof of payment of taxes on these earnings.
21. **NONDISCRIMINATION.** CONSULTANT shall not discriminate against any person related to the performance under this Agreement (including any employee or applicant) or the basis of race, color, religious creed, national origin, gender, physical or mental disability, marital status, or sexual orientation.
22. **DEFAULT.** In the event CONSULTANT fails to provide the services set forth in this Agreement due to the fault of CONSULTANT, CITY shall have the right to either do the work itself or hire an outside contractor to perform those services.
23. **TIME OF ESSENCE.** Time is of the essence for each and every provision of this Agreement.
24. **CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS.** CITY reserves its right to employ other consultants in connection with this Project or other projects.
25. **VENUE.** In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the County of Santa Clara, San Jose, California.
26. **CONSTRUCTION.** To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in the manner that avoids any violation of statute, ordinance, regulation or law.
27. **AMENDMENT.** This Agreement constitutes the complete and exclusive statement of the Agreement to CITY and CONSULTANT. It may be amended or extended from time-to-time by written agreement of the parties hereto.

- 28. INTEGRATION.** This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by CONSULTANT for CITY, and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement shall be effective only if it is in writing, signed by the party to be charged. If there is any conflict in the terms of this Agreement with the exhibits or attachments, then the provisions of this Agreement shall control.
- 29. EXECUTION.** This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement it shall not be necessary to produce or account for more than one such counterpart.
- 30. IN WITNESS. WHEREOF,** the CITY and CONSULTANT have executed this Agreement as of the date first above written.



## EXHIBIT A SCOPE OF WORK

At the direction of Community Development Director or his/her designee, the consulting will coordinate with the City of Los Altos to perform the following tasks:

This contract will result in updated objective design standards for the mixed use, commercial and multifamily zoning districts within the City of Los Altos. Objective design standards mean changes to existing codes, design guidelines and other regulations that are applicable to impacted zoning districts.

### Task 1: Project Initiation, Background Analysis, and Direction Setting

A. **Project Initiation Meeting and Document/Data Request (Team).** The consulting team will prepare for a project initiation meeting with City staff (teleconference). At this meeting, the consulting team will review the project scope of work and timeline, confirm project goals and objectives, and provide an overview of recent State legislation as it relates to the project. The team will also discuss applicable material, including the General Plan, Zoning Code, the General Plan Negative Declaration, the Housing Element Neg Dec, Downtown Vision Plan, Sherwood Specific Plan, and the Loyola Corner Specific Plan, the City's design review criteria for various project types, and other relevant information. The consulting team will submit a formal document request to City staff following the project initiation meeting.

B. **Assessment of Existing Code and Other Relevant Material (Team).** The consulting team will conduct a thorough background assessment relevant to multi-family and residential mixed-use objective design standards to inform the project scope and direction. This task will include:

- An evaluation of the Los Altos Zoning Code for consistency with recent State law, including but not limited to SB2, SB35, SB330, AB1485 and AB881;
- A review of relevant subjective and objective standards, criteria, and guidelines for multi-family and residential mixed-use development, primarily focusing on the subjective;
- An assessment of the areas of the city that are subject to SB35 and other housing laws to better understand the geographic areas of the City that will need to be considered for objective design standards;
- A micro-scale analysis of existing characteristics of the City's built environment to identify exemplars and unique attributes;
- Lot testing on sample lots/sites within existing zoning districts. The focus will be zoning districts where multi-family and residential mixed-use objective standards may be required; and
- A close look at transportation conditions such as parking standards, traffic studies, and best management practices related to transportation services to gauge on-site parking and transportation demands.

Collectively, the analysis will help inform the development of thoughtful, robust, and legally compliant objective standards that lead to predictable built results.

C. **Direction Setting Presentation (LWC).** Based on the findings of the consulting team's assessment of existing regulatory documents and site testing, the consultant team will prepare a Direction Setting and Recommendations Presentation. The presentation will document the

findings from Task 1B (Assessment of the Existing Regulations), show the “big ideas” for preparing objective design standards for multi-family and residential mixed-use development, and outline potential amendments to the City’s existing Zoning Code. The presentation will be given at the first City Council study session by no later than June 30, 2020.

### ***MEETINGS***

- Project Initiation Meeting

### ***DELIVERABLES***

- Direction Setting and Recommendations PowerPoint Presentation

## **Task 2: Stakeholder and Community Outreach**

Due to the current statewide shelter in place order from the Governor of California, the Public Outreach Program will focus on online and teleconferencing alternatives.

- A. **Project Website (LWC).** Throughout the project, LWC will work closely with the City to develop, review, edit and provide material for the project website, such as text, photographs, maps, diagrams, and other information about the project. LWC anticipates that the City will upload material provided by the consulting team to the project page on the City website. The site may include a link to social media, an email list-serve sign-up so community members can stay engaged and advised on upcoming meetings, and access to project-related material and drafts for public review. (Assumes a 6-month project engagement.)
- B. **Stakeholder Interviews (LWC).** LWC will prepare for and participate in one or two days of interviews with City staff, City Councilmembers, Planning Commissioners, city identified developers and architects, and others familiar with the Zoning Code and development in the City. City staff will be responsible for identifying and coordinating interviews and meetings. LWC anticipates about fifteen, 30-minute interviews. The consultant will summarize the concerns and comments from the stakeholder process into a document for review by the public.
- C. **Community Outreach on Annotated Objective Design Standards Framework (LWC).** The consulting team will design an online, interactive community workshop to provide context (background information, visualization of concepts, etc.), introduce specific changes, and gather community input. The consulting team will also prepare an appropriate online feedback mechanism to gather concerns and suggestions. Context information should include, but not be limited to, scope of the project, goals & objectives, and visualization of the concepts introduced. A summary memo of all public comments received will be provided to the City and posted on the project website.
- D. **City Council or Joint Planning Commission/City Council Study Sessions (Team).** The consulting team will conduct two City Council or Joint Planning Commission and City Council study sessions at key milestones in the project. These study sessions will be opportunities for in-depth discussions of key deliverables and issues related to the preparation of the objective design standards. Topics of the study sessions are:
  1. **Discussion of the Findings and Recommendations (Task 1C).** The consulting team will present the assessment of existing Code and site testing to facilitate a

discussion about the concerns expressed in the stakeholder interviews and the priorities for the objective design standards.

2. **Discussion of the Annotated Framework (Task 3A).** The consulting team will present the Annotated Framework to facilitate a discussion on the organization and content of the objective design standards.

### *MEETINGS*

- Stakeholder Interviews and Summary of the Interviews
- Community Outreach Workshop (online)
- City Council or Joint Planning Commission/City Council Study Sessions (2)

### *DELIVERABLES*

- Project website and social media content

### **Task 3: Public Review Draft Objective Design Standards**

- A. **Annotated Objective Design Standards Framework (LWC and Opticos).** Based on the final Recommendations Memo and community input, the team will prepare an Annotated Objective Design Standards Framework. The Framework will provide the recommended format, template, organization, graphics, and content of the objective design standards. The Annotated Framework will be given at the second City Council study session (see Task 2).
- B. **Administrative Draft Objective Design Standards (LWC and Opticos).** Based on the Annotated Outline and reflective of the analysis, review, and input gathered in Tasks 1 and 2, the consulting team will prepare Administrative Draft Objective Design Standards for multi-family and residential mixed-use development.
- C. **Public Review Draft Objective Design (LWC and Opticos).** Based on staff comments received on the Administrative Draft, the consulting team will prepare a Public Review Draft of the Objective Design Standards will be prepared for review by the community at a City Council meeting.

### *DELIVERABLES*

- Annotated Objective Design Standards Framework
- Administrative Draft Objective Design Standards
- Public Review Draft Objective Design Standards

### **Task 4: CEQA Documentation**

- A. **CEQA Determination Memo (LWC).** It is anticipated the Objective Design Standards will be consistent with the General Plan's CEQA clearance. LWC will prepare a technical memo supporting findings of consistency. However, if additional CEQA clearance is required, an IS, ND, or an MND may be prepared as an optional task. Additionally, City staff will work with the City Attorney to determine if a Notice of Exemption with the appropriate findings of fact can be made for this project.

## *DELIVERABLES*

- CEQA Determination Memo

### **Task 5: Public Hearings**

- A. **City Council and Planning Commission Hearings (LWC).** LWC will present the Public Review Draft Objective Design Standards to the Planning Commission for recommendation to the City Council and to the City Council for adoption.

### *MEETINGS*

- Planning Commission Hearing (1)
- City Council Hearing (1)

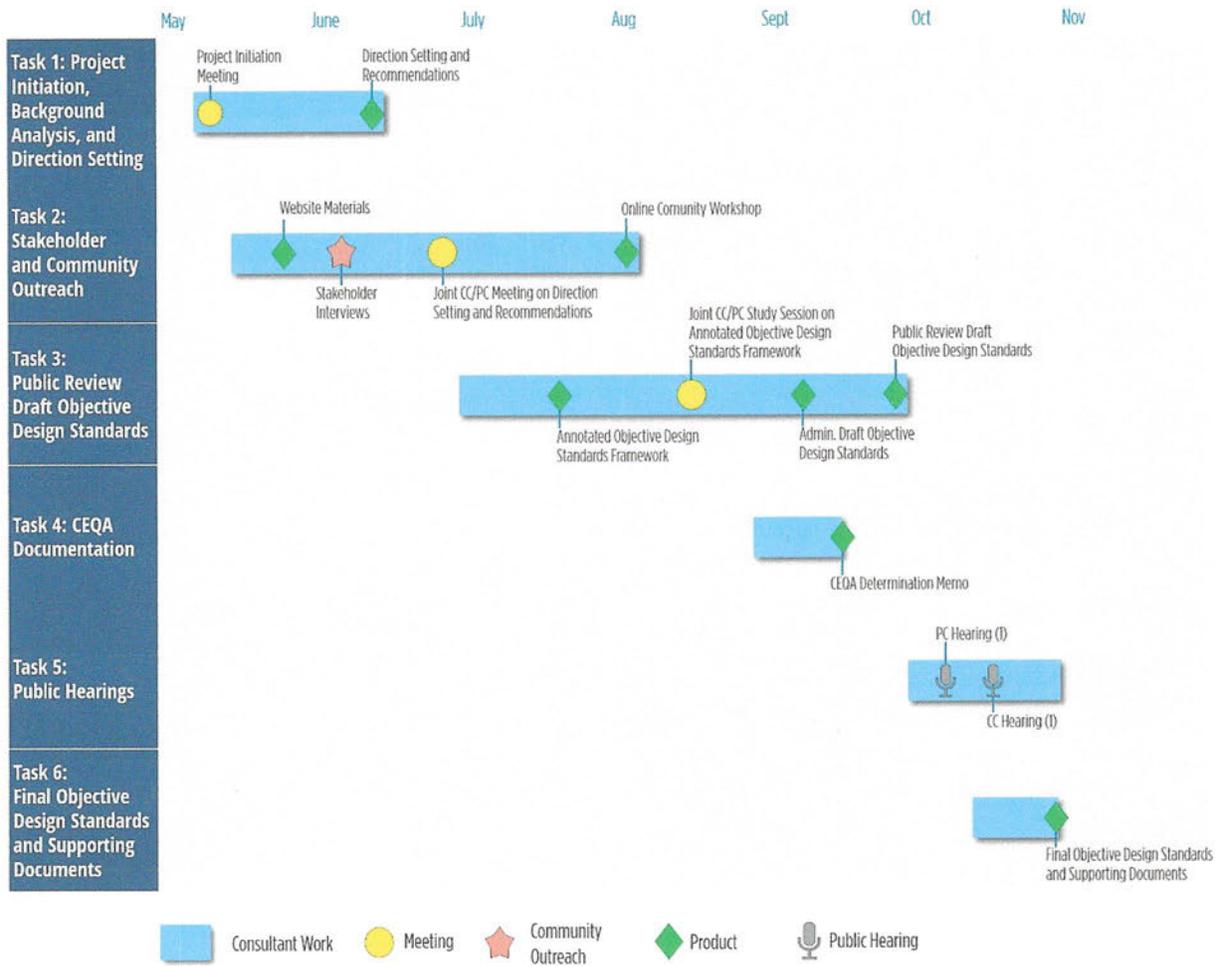
### **Task 6: Final Objective Design Standards and Supporting Documents**

- A. **Final Objective Design Standards (LWC).** Based on the feedback from the final adoption hearings, LWC will prepare the Final Objective Design Standards reflective of input received from the City Council hearings.
- B. **Supporting Documents (LWC).** LWC will prepare an application checklist and a handout for the objective design standards for planning counter hand-outs and online distribution.

### *DELIVERABLES*

- Final Objective Design Standards
- Supporting Documents (PDF format)

Exhibit 1-A (Project Schedule) and Exhibit 1-B (Project Budget) are attachments to the contract and both parties agree to the timelines and budget of said documents.



**Exhibit 1-A (Project Schedule)**

**Exhibit 1B (Project Budget)**  
Los Altos Objective Design Standards

April 27, 2020

Task		LWC, Inc.										Opticos Design, Inc.	W-Trans	Project Total
		Principal		Director		Senior		Associate		LWC, Inc. TOTAL				
		\$275		\$205		\$180		\$145						
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost			
Task 1: Project Initiation, Background Review, and Direction Setting	Task 1A: Project Initiation and Data Request	4	\$ 1,100	2	\$ 410	8	\$ 1,440	8	\$ 1,160	20	\$ 4,110	\$ 4,120	\$ 2,000	\$ 10,230
	Task 1B: Assessment of Existing Code and Relevant Material	4	\$ 1,100	4	\$ 820	32	\$ 5,760	24	\$ 3,480	60	\$ 11,160	\$ 19,000	\$ 4,000	\$ 34,160
	Task 1C: Direction Setting Presentation	2	\$ 550	8	\$ 1,640	24	\$ 4,320	24	\$ 3,480	50	\$ 9,990	\$ 4,120	\$ -	\$ 14,110
Task 2: Community Involvement	Task 2A: Project Website	-	\$ -	-	\$ -	16	\$ 2,880	24	\$ 3,480	40	\$ 6,360	\$ -	\$ -	\$ 6,360
	Task 2B: Stakeholder Interviews	8	\$ 2,200	8	\$ 1,640	32	\$ 5,760	32	\$ 4,640	72	\$ 14,240	\$ 3,140		\$ 7,380 <sup>1</sup>
	Task 2C: Community Outreach	8	\$ 2,200	-	\$ -	32	\$ 5,760	40	\$ 5,800	80	\$ 13,760	\$ 5,000		\$ 8,760 <sup>1</sup>
	Task 2D: CC/PC Study Sessions (2)	8	\$ 2,200	8	\$ 1,640	24	\$ 4,320	32	\$ 4,640	64	\$ 12,800	\$ 5,000	\$ 1,500	\$ 19,300
Task 3: Public Review Draft Objective Design Standards	Task 3A: Annotated Framework	-	\$ -	8	\$ 1,640	32	\$ 5,760	12	\$ 1,740	44	\$ 9,140	\$ 4,970	\$ -	\$ 14,110
	Task 3B: Admin Draft Objective Design Standards	16	\$ 4,400	24	\$ 4,920	60	\$ 10,800	100	\$ 4,500 <sup>1</sup>	176	\$ 34,620	\$ 24,000	\$ -	\$ 58,620
	Task 3C: Public Review Draft Objective Design Standards	8	\$ 2,200	12	\$ 2,460	32	\$ 5,760	80	\$ 1,600 <sup>1</sup>	120	\$ 22,020	\$ 12,500	\$ -	\$ 34,520
Task 4: CEQA	Task 4A: CEQA Documentation	4	\$ 1,100	-	\$ -	8	\$ 1,440	-	\$ -	12	\$ 2,540	\$ -	\$ -	\$ 2,540
Task 5: Public Hearings	Task 5A: Joint CC/PC Hearing (1)	8	\$ 2,200	8	\$ 1,640	16	\$ 2,880	16	\$ 2,320	40	\$ 9,040	\$ 2,500	\$ 1,500	\$ 13,040
Task 6: Final Products	Task 6A: Final Objective Design Standards	-	\$ -	-	\$ -	24	\$ 4,320	24	\$ 3,480	48	\$ 7,800	\$ -	\$ -	\$ 7,800
	Task 6B: Supporting Docs		\$ -	4	\$ 820	40	\$ 7,200	40	\$ 5,800	80	\$ 13,820	\$ -	\$ -	\$ 13,820
TOTAL BASE FEE											\$ 171,400	\$ 84,350	\$ 9,000	\$ 264,750
Contingency														\$ 35,000
Total With Contingency														\$ 299,750

## EXHIBIT B

### INSURANCE

CONSULTANT shall provide its insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements to: **Project Manager, City of Los Altos, 1 N. San Antonio Road, Los Altos, CA 94022**

#### **Minimum Scope of Insurance**

Coverage shall be *at least as broad as*:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, with limits no less than **\$1,000,000 or \$2,000,000 aggregate** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following:

- a. Bodily Injury and Property Damage
- b. Personal Injury/Advertising Injury
- c. Premises/Operations Liability
- d. Products/Completed Operations Liability
- e. Aggregate Limits that Apply per Project
- f. Explosion, Collapse and Underground (UCX) exclusion deleted
- g. Contractual Liability with respect to this Agreement
- h. Broad Form Property Damage
- i. Independent Consultants Coverage

The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

2. **Automobile Liability:** Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if CONSULTANT has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation/Employer’s Liability:** CONSULTANT certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions before commencing work under this Agreement. To the extent CONSULTANT has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement CONSULTANT shall maintain insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the CONSULTANT’s profession, with limit no less than **\$1,000,000** per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement

and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the CONSULTANT. "Covered Professional Services" as designed in the policy must specifically include work performed under this Agreement.

5. **Umbrella or Excess Liability: Umbrella or Excess Insurance.** If umbrella or an excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be "pay on behalf," with defense costs payable in addition to policy limits. CONSULTANT shall provide a "follow form" endorsement or schedule of underlying coverage satisfactory to the CITY indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.
6. The CITY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the umbrella or excess policy with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT including materials, parts or equipment furnished in connection with such work or operations. If CONSULTANT maintains broader coverage, umbrella or excess coverage and/or higher limits than the minimums shown above, the CITY requires and shall be entitled to the broader coverage, umbrella or excess coverage and/or the higher limits maintained by CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and any other coverages shall be available to the CITY.

**Other Insurance Provisions.** The insurance policies are to contain, or be endorsed to contain, the following provisions:

**Additional Insured Status.** The CITY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy and the Automobile Liability policy, with endorsements under CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage, with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT including materials, parts or equipment furnished in connection with such work or operations.

**Primary Coverage.** For any claims related to this contract, the CONSULTANT's insurance coverage shall be primary insurance as respects the CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

**Notice of Cancellation.** Each insurance policy required above shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the CITY.

**Waiver of Subrogation.** CONSULTANT hereby grants to CITY a waiver of any right to subrogation which any insurer of said CONSULTANT may acquire against the CITY by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the CITY has received a waiver of subrogation endorsement from the insurer.

**Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the CITY. The CITY may require the CONSULTANT to provide proof

of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

**Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the CITY.

**Claims Made Policies.** If any of the required policies provide claims-made coverage:

7. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
8. Insurance must be maintained and evidence of insurance must be provided *for at least three (3) years after completion of the contract work.*
9. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONSULTANT must purchase "extended reporting" coverage for a minimum of *three (3) years* after completion of contract work.

**Verification of Coverage.** CONSULTANT shall furnish the CITY with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT's obligation to provide them. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**Special Risks or Circumstances.** CITY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.



## BUSINESS LIABILITY COVERAGE FORM

### 2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

**a. Any Insured**

To any insured, except "volunteer workers".

**b. Hired Person**

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

**c. Injury On Normally Occupied Premises**

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

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

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

**e. Athletics Activities**

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

**f. Products-Completed Operations Hazard**

Included with the "products-completed operations hazard".

**g. Business Liability Exclusions**

Excluded under Business Liability Coverage.

### C. WHO IS AN INSURED

1. If you are designated in the Declarations as:

**a.** An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

**b.** A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

**c.** A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

**d.** An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

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

2. Each of the following is also an insured:

**a. Employees And Volunteer Workers**

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

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

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

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

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

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

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

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

(2) "Property damage" to property:

(a) Owned, occupied or used by,

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

**b. Real Estate Manager**

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

**c. Temporary Custodians Of Your Property**

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

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

**d. Legal Representative If You Die**

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

**e. Unnamed Subsidiary**

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

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

**3. Newly Acquired Or Formed Organization**

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

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

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

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

**4. Operator Of Mobile Equipment**

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

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

**5. Operator of Nonowned Watercraft**

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

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

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

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

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

## BUSINESS LIABILITY COVERAGE FORM

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

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

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

### a. Vendors

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

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

This insurance does not apply to:

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

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

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

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

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

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

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

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

### b. Lessors Of Equipment

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

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

**c. Lessors Of Land Or Premises**

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

**d. Architects, Engineers Or Surveyors**

- (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
  - (a) In connection with your premises; or
  - (b) In the performance of your ongoing operations performed by you or on your behalf.
- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

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

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

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

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

**f. Any Other Party**

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

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

## BUSINESS LIABILITY COVERAGE FORM

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

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

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

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

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

#### **1. The Most We Will Pay**

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

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

#### **2. Aggregate Limits**

The most we will pay for:

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

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

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

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

#### **3. Each Occurrence Limit**

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

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

#### **4. Personal And Advertising Injury Limit**

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

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

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

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

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

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

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

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

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

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

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

### **1. Bankruptcy**

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

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

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

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

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

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

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

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

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

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

You and any other involved insured must:

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

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

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

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

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

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

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

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

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

## BUSINESS LIABILITY COVERAGE FORM

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

### 3. Financial Responsibility Laws

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

### 4. Legal Action Against Us

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

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

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

### 5. Separation Of Insureds

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

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

### 6. Representations

#### a. When You Accept This Policy

By accepting this policy, you agree:

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

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

### b. Unintentional Failure To Disclose Hazards

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

### 7. Other Insurance

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

#### a. Primary Insurance

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

#### b. Excess Insurance

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

#### (1) Your Work

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

#### (2) Premises Rented To You

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

#### (3) Tenant Liability

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

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

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

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

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

## 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.

**ENDORSEMENT No. 16**

**This endorsement, effective 12:01 AM:** June 27, 2019

**Forms a part of policy no:** BE 035882751

**Issued to:** LISA WISE CONSULTING, INC.

**By:** NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

**Prime Express<sup>SM</sup>**

**Additional Insured Endorsement -- Primary and Non-Contributory**

This policy is amended as follows:

**Section VII. DEFINITIONS**, Paragraph N. is amended to include the following additional provision:

**Insured means:**

Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization is an additional insured on your policy, but only if such person or organization is included under the coverage provided by **Scheduled Underlying Insurance**. Such person or organization is an additional insured only with respect to liability arising out of **Your Work** at the location(s) designated in such contract or agreement.

This provision does not apply to liability arising out of the sole negligence of such person or organization for its own acts or omissions or those of its employees or anyone else acting on its behalf. Coverage afforded to these additional insured parties will be primary to, and non-contributory with, any other insurance available to that person or organization.

All other terms, definitions, conditions, and exclusions of this policy remain unchanged.



---

Authorized Representative or  
Countersignature (Where Applicable)

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA  
BLANKET BASIS**

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

The additional premium for this endorsement shall be calculated by applying a factor of 2% to the total manual premium, with a minimum initial charge of \$350, then applying all other pricing factors for the policy to this calculated charge to derive the final cost of this endorsement.

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

**Schedule**

**Blanket Waiver**

**Person/Organization** Blanket Waiver – Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

<b>Job Description</b>	<b>Waiver Premium (prior to adjustments)</b>
All CA Operations	350.00

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.  
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective: 04/01/2020

Policy No.: LIWC115710

Endorsement No.:

Insured:

Premium \$

Insurance Company: Oak River Insurance Company

Countersigned by \_\_\_\_\_

# 20-05.LisaWiseConsultingInc.PrepObjtvDesignStd.Agreement

Final Audit Report

2020-04-30

Created:	2020-04-30
By:	Angel Rodriguez (arodriguez@losaltosca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAADCMfgW50GCVOm2sOJvvWLGuhe6IVRDZ8

## "20-05.LisaWiseConsultingInc.PrepObjtvDesignStd.Agreement" History

-  Document created by Angel Rodriguez (arodriguez@losaltosca.gov)  
2020-04-30 - 5:28:48 PM GMT- IP address: 73.158.213.34
-  Document emailed to Jon Biggs (jbiggs@losaltosca.gov) for signature  
2020-04-30 - 5:42:33 PM GMT
-  Email viewed by Jon Biggs (jbiggs@losaltosca.gov)  
2020-04-30 - 5:45:37 PM GMT- IP address: 71.80.227.237
-  Document e-signed by Jon Biggs (jbiggs@losaltosca.gov)  
Signature Date: 2020-04-30 - 8:27:34 PM GMT - Time Source: server- IP address: 71.80.227.237
-  Document emailed to jolie houston (jolie.houston@berliner.com) for signature  
2020-04-30 - 8:27:36 PM GMT
-  Email viewed by jolie houston (jolie.houston@berliner.com)  
2020-04-30 - 8:29:28 PM GMT- IP address: 174.194.211.214
-  Document e-signed by jolie houston (jolie.houston@berliner.com)  
Signature Date: 2020-04-30 - 8:30:18 PM GMT - Time Source: server- IP address: 174.194.211.214
-  Document emailed to Christopher Jordan (cjordan@losaltosca.gov) for signature  
2020-04-30 - 8:30:19 PM GMT
-  Email viewed by Christopher Jordan (cjordan@losaltosca.gov)  
2020-04-30 - 9:34:04 PM GMT- IP address: 207.140.44.2
-  Document e-signed by Christopher Jordan (cjordan@losaltosca.gov)  
Signature Date: 2020-04-30 - 11:20:56 PM GMT - Time Source: server- IP address: 207.140.44.2



Adobe Sign

✔ Signed document emailed to jolie houston (jolie.houston@berliner.com), Christopher Jordan (cjordan@losaltosca.gov), Jon Biggs (jbiggs@losaltosca.gov), and Angel Rodriguez (arodriguez@losaltosca.gov)

2020-04-30 - 11:20:56 PM GMT



Adobe Sign

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BUSINESS AUTO COVERAGE ENHANCEMENT ENDORSEMENT**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

**COVERAGE INDEX**

**SUBJECT**

**PROVISION NUMBER**

ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMIT	3
ACCIDENTAL AIRBAG DEPLOYMENT	12
AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS	19
AMENDED FELLOW EMPLOYEE EXCLUSION	5
AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE	13
BROAD FORM INSURED	1
BODILY INJURY REDEFINED	22
EMPLOYEES AS INSURED (including employee hired auto)	2
EXTENDED CANCELLATION CONDITION	23
EXTRA EXPENSE - BROADENED COVERAGE	10
GLASS REPAIR - WAIVER OF DEDUCTIBLE	15
HIRED AUTO PHYSICAL DAMAGE (including employee hired auto and loss of use)	6
HIRED AUTO COVERAGE TERRITORY	20
LOAN / LEASE GAP	14
PARKED AUTO COLLISION COVERAGE (WAIVER OF DEDUCTIBLE)	16
PERSONAL EFFECTS COVERAGE	11
PHYSICAL DAMAGE - ADDITIONAL TRANSPORTATION EXPENSE COVERAGE	8
RENTAL REIMBURSEMENT	9
SUPPLEMENTARY PAYMENTS	4
TOWING AND LABOR	7
TWO OR MORE DEDUCTIBLES	17
UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS	18
WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US	20

**SECTION II - LIABILITY COVERAGE** is amended as follows:

**1. BROAD FORM INSURED**

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

d. Any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period. However, "insured" does not include any organization that:

- (1) Is a partnership or joint venture; or
- (2) Is an insured under any other automobile policy; or
- (3) Has exhausted its Limit of Insurance under any other automobile policy.

Paragraph d. (2) of this provision does not apply to a policy written to apply specifically in excess of this policy.

e. Any organization you newly acquire or form, other than a partnership or joint venture, of which you own more than 50 percent of the voting stock. This automatic coverage is afforded only for 180 days from the date of acquisition or formation. However, coverage under this provision does not apply:

- (1) If there is similar insurance or a self-insured retention plan available to that organization;



275

of 116

67

- (2) If the Limits of Insurance of any other insurance policy have been exhausted; or
- (3) To "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

**2. EMPLOYEES AS INSURED**

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

- f. Any "employee" of yours while using a covered "auto" you do not own, hire or borrow, but only for acts within the scope of their employment by you. Insurance provided by this endorsement is excess over any other insurance available to any "employee".
- g. An "employee" of yours while operating an "auto" hired or borrowed under a written contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business and within the scope of their employment. Insurance provided by this endorsement is excess over any other insurance available to the "employee".

**3. ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMIT**

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

- h. Any person or organization with respect to the operation, maintenance or use of a covered "auto", provided that you and such person or organization have agreed in a written contract, agreement, or permit issued to you by governmental or public authority, to add such person, or organization, or governmental or public authority to this policy as an "insured".

However, such person or organization is an "insured":

- (1) Only with respect to the operation, maintenance or use of a covered "auto";
- (2) Only for "bodily injury" or "property damage" caused by an "accident" which takes place after you executed the written contract or agreement, or the permit has been issued to you; and
- (3) Only for the duration of that contract, agreement or permit

**4. SUPPLEMENTARY PAYMENTS**

SECTION II - LIABILITY COVERAGE, Coverage Extensions, 2.a. Supplementary Payments, paragraphs (2) and (4) are replaced by the following:

- (2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic violations ) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request, including actual loss of earnings up to \$500 a day because of time off from work.

**5. AMENDED FELLOW EMPLOYEE EXCLUSION**

In those jurisdictions where, by law, fellow employees are not entitled to the protection afforded to the employer by the workers compensation exclusivity rule, or similar protection, the following provision is added:

SECTION II - LIABILITY, exclusion B.5. FELLOW EMPLOYEE does not apply if the "bodily injury" results from the use of a covered "auto" you own or hire.

**SECTION III - PHYSICAL DAMAGE COVERAGE** is amended as follows:

**6. HIRED AUTO PHYSICAL DAMAGE**

Paragraph A.4. Coverage Extensions of SECTION III - PHYSICAL DAMAGE COVERAGE, is amended by adding the following:

If hired "autos" are covered "autos" for Liability Coverage, and if Comprehensive, Specified Causes of Loss or Collision coverage are provided under the Business Auto Coverage Form for any "auto" you own, then the Physical Damage coverages provided are extended to "autos":

- a. You hire, rent or borrow; or

- b. Your "employee" hires or rents under a written contract or agreement in that "employee's" name, but only if the damage occurs while the vehicle is being used in the conduct of your business,

subject to the following limit and deductible:

- A. The most we will pay for "loss" in any one "accident" or "loss" is the smallest of:
- (1) \$50,000; or
  - (2) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
  - (3) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality, minus a deductible.
- B. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage.
- C. Subject to the limit, deductible and excess provisions described in this provision, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.
- D. Subject to a maximum of \$1,000 per "accident", we will also cover the actual loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss.
- E. This coverage extension does not apply to:
- (1) Any "auto" that is hired, rented or borrowed with a driver; or
  - (2) Any "auto" that is hired, rented or borrowed from your "employee".

For the purposes of this provision, SECTION V - DEFINITIONS is amended by adding the following:  
"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

## 7. TOWING AND LABOR

SECTION III - PHYSICAL DAMAGE COVERAGE, paragraph A.2. Towing, is amended by the addition of the following:

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" classified and rated as a private passenger type, "light truck" or "medium truck" is disabled:

- a. For private passenger type vehicles, we will pay up to \$50 per disablement.
- b. For "light trucks", we will pay up to \$50 per disablement. "Light trucks" are trucks that have a gross vehicle weight (GVW) of 10,000 pounds or less.
- c. For "medium trucks", we will pay up to \$150 per disablement. "Medium trucks" are trucks that have a gross vehicle weight (GVW) of 10,001 - 20,000 pounds.

However, the labor must be performed at the place of disablement.

## 8. PHYSICAL DAMAGE - ADDITIONAL TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a., Coverage Extension of SECTION III - PHYSICAL DAMAGE COVERAGE, is amended to provide a limit of \$50 per day and a maximum limit of \$1,500



56524792

004585

275

of 116

69

**9. RENTAL REIMBURSEMENT**

SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

- a. We will pay up to \$75 per day for rental reimbursement expenses incurred by you for the rental of an "auto" because of "accident" or "loss", to an "auto" for which we also pay a "loss" under Comprehensive, Specified Causes of Loss or Collision Coverages. We will pay only for those expenses incurred after the first 24 hours following the "accident" or "loss" to the covered "auto."
- b. Rental Reimbursement will be based on the rental of a comparable vehicle, which in many cases may be substantially less than \$75 per day, and will only be allowed for the period of time it should take to repair or replace the vehicle with reasonable speed and similar quality, up to a maximum of 30 days.
- c. We will also pay up to \$500 for reasonable and necessary expenses incurred by you to remove and replace your tools and equipment from the covered "auto".
- d. This coverage does not apply unless you have a business necessity that other "autos" available for your use and operation cannot fill.
- e. If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided under Paragraph 4. Coverage Extension.
- f. No deductible applies to this coverage.

For the purposes of this endorsement provision, materials and equipment do not include "personal effects" as defined in provision 11.

**10. EXTRA EXPENSE - BROADENED COVERAGE**

Under SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you. The maximum amount we will pay is \$1,000.

**11. PERSONAL EFFECTS COVERAGE**

A. SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

If you have purchased Comprehensive Coverage on this policy for an "auto" you own and that "auto" is stolen, we will pay, without application of a deductible, up to \$600 for "personal effects" stolen with the "auto."

The insurance provided under this provision is excess over any other collectible insurance.

B. SECTION V - DEFINITIONS is amended by adding the following:

For the purposes of this provision, "personal effects" mean tangible property that is worn or carried by an insured." "Personal effects" does not include tools, equipment, jewelry, money or securities.

**12. ACCIDENTAL AIRBAG DEPLOYMENT**

SECTION III - PHYSICAL DAMAGE COVERAGE, B. EXCLUSIONS is amended by adding the following:

If you have purchased Comprehensive or Collision Coverage under this policy, the exclusion for "loss" relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

Any insurance we provide shall be excess over any other collectible insurance or reimbursement by manufacturer's warranty. However, we agree to pay any deductible applicable to the other coverage or warranty.

**13. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE**

SECTION III - PHYSICAL DAMAGE COVERAGE, B. EXCLUSIONS, exception paragraph a. to exclusions 4.c. and 4.d. is deleted and replaced with the following:

of 116  
70

Exclusion 4.c. and 4.d. do not apply to:

- a. Electronic equipment that receives or transmits audio, visual or data signals, whether or not designed solely for the reproduction of sound, if the equipment is permanently installed in the covered "auto" at the time of the "loss" and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto" and physical damage coverages are provided for the covered "auto"; or

If the "loss" occurs solely to audio, visual or data electronic equipment or accessories used with this equipment, then our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by a \$100 deductible.

#### 14. LOAN / LEASE GAP COVERAGE

- A. Paragraph C., LIMIT OF INSURANCE of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by adding the following:

The most we will pay for a "total loss" to a covered "auto" owned by or leased to you in any one "accident" is the greater of the:

1. Balance due under the terms of the loan or lease to which the damaged covered "auto" is subject at the time of the "loss" less the amount of:
  - a. Overdue payments and financial penalties associated with those payments as of the date of the "loss",
  - b. Financial penalties imposed under a lease due to high mileage, excessive use or abnormal wear and tear,
  - c. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease,
  - d. Transfer or rollover balances from previous loans or leases,
  - e. Final payment due under a "Balloon Loan",
  - f. The dollar amount of any unrepaired damage which occurred prior to the "total loss" of a covered "auto",
  - g. Security deposits not refunded by a lessor,
  - h. All refunds payable or paid to you as a result of the early termination of a lease agreement or as a result of the early termination of any warranty or extended service agreement on a covered "auto",
  - i. Any amount representing taxes,
  - j. Loan or lease termination fees; or
2. The actual cash value of the damage or stolen property as of the time of the "loss".

An adjustment for depreciation and physical condition will be made in determining the actual cash value at the time of the "loss". This adjustment is not applicable in Texas.

#### B. ADDITIONAL CONDITIONS

This coverage applies only to the original loan for which the covered "auto" that incurred the loss serves as collateral, or lease written on the covered "auto" that incurred the loss.

- C. SECTION V - DEFINITIONS is changed by adding the following:

As used in this endorsement provision, the following definitions apply:

"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

A "balloon loan" is one with periodic payments that are insufficient to repay the balance over the term of the loan, thereby requiring a large final payment.



275

of 116

71

**15. GLASS REPAIR - WAIVER OF DEDUCTIBLE**

Paragraph **D. Deductible** of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

No deductible applies to glass damage if the glass is repaired rather than replaced.

**16. PARKED AUTO COLLISION COVERAGE (WAIVER OF DEDUCTIBLE)**

Paragraph **D. Deductible** of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

The deductible does not apply to "loss" caused by collision to such covered "auto" of the private passenger type or light weight truck with a gross vehicle weight of 10,000 lbs. or less as defined by the manufacturer as maximum loaded weight the "auto" is designed to carry while it is:

- a. In the charge of an "insured";
- b. Legally parked; and
- c. Unoccupied.

The "loss" must be reported to the police authorities within 24 hours of known damage.

The total amount of the damage to the covered "auto" must exceed the deductible shown in the Declarations.

This provision does not apply to any "loss" if the covered "auto" is in the charge of any person or organization engaged in the automobile business.

**17. TWO OR MORE DEDUCTIBLES**

Under SECTION III PHYSICAL DAMAGE COVERAGE, if two or more company policies or coverage forms apply to the same accident, the following applies to paragraph D. Deductible:

- a. If the applicable Business Auto deductible is the smaller (or smallest) deductible it will be waived; or
- b. If the applicable Business Auto deductible is not the smaller (or smallest) deductible it will be reduced by the amount of the smaller (or smallest) deductible; or
- c. If the loss involves two or more Business Auto coverage forms or policies the smaller (or smallest) deductible will be waived.

For the purpose of this endorsement company means any company that is part of the Liberty Mutual Group.

**SECTION IV - BUSINESS AUTO CONDITIONS is amended as follows:**

**18. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

SECTION IV- BUSINESS AUTO CONDITIONS, Paragraph **B.2.** is amended by adding the following:

If you unintentionally fail to disclose any hazards, exposures or material facts existing as of the inception date or renewal date of the Business Auto Coverage Form, the coverage afforded by this policy will not be prejudiced.

However, you must report the undisclosed hazard of exposure as soon as practicable after its discovery, and we have the right to collect additional premium for any such hazard or exposure.

**19. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS**

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **A.2.a.** is replaced in its entirety by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must promptly notify us when it is known to:
  - 1. You, if you are an individual;
  - 2. A partner, if you are a partnership;
  - 3. Member, if you are a limited liability company;
  - 4. An executive officer or the "employee" designated by the Named Insured to give such notice, if you are a corporation.

of 116  
72

To the extent possible, notice to us should include:

- (1) How, when and where the "accident" or "loss" took place;
- (2) The "insureds" name and address; and
- (3) The names and addresses of any injured persons and witnesses.

**20. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **A.5.**, Transfer of Rights of Recovery Against Others to Us, is amended by the addition of the following:

If the person or organization has waived those rights before an "accident" or "loss", our rights are waived also.

**21. HIRED AUTO COVERAGE TERRITORY**

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **B.7.**, Policy Period, Coverage Territory, is amended by the addition of the following:

- f. For "autos" hired 30 days or less, the coverage territory is anywhere in the world, provided that the insured's responsibility to pay for damages is determined in a "suit", on the merits, in the United States, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

This extension of coverage does not apply to an "auto" hired, leased, rented or borrowed with a driver.

**SECTION V - DEFINITIONS is amended as follows:**

**22. BODILY INJURY REDEFINED**

Under SECTION V - DEFINITIONS, definition **C.** is replaced by the following:

"Bodily injury" means physical injury, sickness or disease sustained by a person, including mental anguish, mental injury, shock, fright or death resulting from any of these at any time.

**COMMON POLICY CONDITIONS**

**23. EXTENDED CANCELLATION CONDITION**

COMMON POLICY CONDITIONS, paragraph **A.** - CANCELLATION condition applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation. This provision does not apply in those states which require more than 60 days prior notice of cancellation.



275

of 116

73