

**Contract for Professional Engineering Services**  
**City of Billings W.O. 17-14**  
**Grand Avenue Water and Sanitary Sewer Extension Project**

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In consideration of the mutual promises herein, City of Billings and Territorial Landworks, Inc. agree as follows. This Contract consists of:

- Part I, consisting of 15 Sections of Special Provisions;
- Part II, consisting of 11 Sections of General Provisions;
- Appendix A consisting of 6 pages (Basic Services of Engineer);
- Appendix B consisting of 2 pages (Methods and Times of Payment);
- Appendix C consisting of 1 page (Additional Services of Engineer);
- Appendix D consisting of 2 pages (Schedule of Professional Fees);
- Appendix E consisting of 1 page (Project Schedule);
- Appendix F consisting of 14 pages (Certificate(s) of Insurance)

**PART I**  
**SPECIAL PROVISIONS**

**Section 1. Definitions.**

In this Contract:

- A. "Administrator" means the City Engineer of the Engineering Division of the Public Works Department or the designee.
- B. "Billings" means the City of Billings.
- C. "Engineer" means Territorial Landworks, Inc.
- D. "Contractor" means the third party responsible for the physical construction of the project.

**Section 2. Scope of Services.**

- A. The Engineer shall perform professional services in accordance with Appendix A, which is attached hereto and incorporated in this Section by reference.
- B. Billings shall pay the Engineer in accordance with the Schedule of Professional Fees attached as Appendix D and incorporated herein by reference for services actually performed under this Contract.
- C. Billings shall not allow any claim for services other than those described in this Section. However, the Engineer may provide, at its own expense, any other services that are consistent with this Contract.

- D. The Engineer shall provide as-built drawings as specified hereafter, as approved by the City of Billings, to the Administrator within 30 days after the project completion date. Final payment will be withheld until the as-built drawings are received by the City of Billings.
- ~~E. The Engineer shall provide certified construction payrolls to the Administrator stating in writing that the payrolls have been reviewed and are acceptable.~~

Section 3. Time for Performance.

- A. This Contract becomes effective when signed on behalf of Billings.
- B. The Engineer shall commence performance of the Work described in Section 2 on receipt of written Notice to Proceed and complete that performance in accordance with the schedule set forth in Appendix E.
- C. This Contract shall terminate at midnight on December 31, 2018.

Section 4. Compensation; Method of Payment.

- A. Each month, or at the conclusion of each phase of the Work for which payment is due, as negotiated on a per-task basis, the Engineer shall present a bill to the Administrator describing the Work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator. If any payment is withheld because the Engineer's performance is unsatisfactory, the Administrator must, within ten (10) days of the payment denial, notify the Engineer of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why. Billings will pay Engineer within 30 days of receiving an acceptable invoice.
- B. The Engineer is not entitled to any compensation under this Contract, other than is expressly provided for in this Section.
- C. As a condition of payment, the Engineer shall have paid all City taxes currently due and owing by the Engineer.

Section 5. Termination of the Engineer's Services.

The Engineer's services under Section 2 of this Part may be terminated:

- A. By mutual consent of the parties.
- B. For the convenience of Billings, provided that Billings notifies the Engineer in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.
- C. For cause, by either party where the other party fails in any material way to perform its obligations under this Contract. Termination under this Subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within 30 days after receiving the notice.

Section 6. Duties Upon Termination

- A. If Billings terminates the Engineer's services for convenience, Billings shall pay the Engineer for its actual costs reasonably incurred in performing before termination

and Billings shall pay for services rendered prior to termination. Payment under this Subsection shall never exceed the total compensation allowable under Section 4 of this Part. All finished and unfinished documents and materials prepared by the Engineer shall become the property of Billings.

- B. If the Engineer's services are terminated for cause, Billings shall pay the Engineer the reasonable value of the services satisfactorily rendered prior to termination, less any damages suffered by Billings because of the Engineer's failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed ninety percent (90%) of the total compensation allowable under Section 4 of this Part. Any finished or unfinished documents or materials prepared by the Engineer under this Contract shall become the property of Billings at its option.
- C. If the Engineer receives payments exceeding the amount to which it is entitled under Subsections A or B of this Section, he shall remit the excess to the Administrator within 30 days of receiving notice to do so.
- D. The Engineer shall not be entitled to any compensation under this Section until the Engineer has delivered to the Administrator all documents, records, Work product, materials and equipment owned by Billings and requested by the Administrator.
- E. If the Engineer's services are terminated for whatever reason the Engineer shall not claim any compensation under this Contract, other than that allowed under this Section.
- F. If a final audit has not been performed before the Engineer's services are terminated, Billings may recover any payments for costs disallowed as a result of the final audit.
- G. Except as provided in this Section, termination of the Engineer's services under Section 5 of this Part does not affect any other right or obligation of a party under this Contract.

#### Section 7. Insurance.

- A. The Engineer shall maintain in good standing the insurance described in Subsection B of this Section. Before rendering any services under this Contract, the Engineer shall furnish the Administrator with proof of insurance in accordance with Subsection B of this Section.
- B. The Engineer shall provide the following insurance:
  - 1. Workers' compensation and employer's liability coverage as required by Montana law.
  - 2. Commercial general liability, including contractual and personal injury coverage's -- \$1,500,000 per occurrence.
  - 3. Commercial automobile liability -- \$1,500,000 per accident.
  - 4. Professional liability in the amount of \$1,500,000 per occurrence.
- C. Each policy of insurance required by this Section shall provide for no less than 30 days' advance notice to Billings prior to cancellation.
- D. Billings SHALL be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies. In addition, all policies except Professional Liability and Worker's Compensation shall contain a waiver of subrogation against Billings.

Section 8. Assignments.

Unless otherwise allowed by this Contract or in writing by the Administrator, any assignment by the Engineer of its interest in any part of this Contract or any delegation of duties under this Contract shall be void, and an attempt by the Engineer to assign any part of its interest or delegate duties under this Contract shall give Billings the right immediately to terminate this Contract without any liability for Work performed.

Section 9. Ownership; Publication, Reproduction and Use of Material.

- A. Except as otherwise provided herein, all data, documents and materials produced by the Engineer under this Contract shall be the property of Billings, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents, or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright. The engineer shall retain rights to pre-existing proprietary property including but not limited to interactive models. The Engineer shall have the right to include photographic or artistic representations of the design and construction of the Project among the Engineer's promotional and professional materials. The Engineer's materials shall not include Billings' confidential or proprietary information regardless of whether Billings has previously advised the Engineer in writing of the specific information considered by Billings to be confidential and proprietary.
- B. Equipment purchased by the Engineer with Contract funds: See Appendix A, Section 3. Scope of Work.
- C. Should Billings elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Billings will indemnify and hold harmless the Engineer from any and all claims, demands and causes of action of any kind or character arising as a result of reusing the documents developed under this contract. Additionally, any reuse of work product provided under this Contract must be limited to conceptual or preliminary use for adaptation, and the original Engineer's or subcontractor's signature, professional seals and dates removed. Such reuse of work product, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

Section 10. Notices.

Any notice required pertaining to the subject matter of this Contract shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Billings: City Engineer (Debi Meling, PE)  
City of Billings  
Public Works Department  
2224 Montana Avenue  
Billings, Montana 59101 FAX: (406) 237-6291 / PHONE : (406) 657-3097

Engineer: Territorial Landworks, Inc.  
Mark Bellon, PE, President, COO  
3333 2<sup>nd</sup> Avenue North, Suite 100  
Billings, Montana 59101 FAX: (406) 721-5224 / PHONE: (406) 248-9000

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or 5 days after proof of proper posting.

Section 11. Contract Budget.

In connection with its performance under this Contract, the Engineer shall not make expenditures other than as provided in line items in the Contract budget.

Section 12. Force Majeure.

- A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.
- B. As used in this Contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this Contract, including without limitation:
  - 1. Any interruption, suspension or interference resulting solely from the act of Billings or neglect of Billings not otherwise governed by the terms of this Contract.
  - 2. Strikes or Work stoppages.
  - 3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
  - 4. Order of court, administrative agencies or governmental officers other than Billings.

Section 13. Financial Management System.

The Engineer shall establish and maintain a financial management system that:

- A. Provides accurate, current, and complete disclosure of all financial transactions relating to the Contract;
- B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Engineer's performance under this Contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;
- C. Effectively controls and accounts for all municipal funds and Contract property;
- D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;
- E. Allocates administrative costs to direct service delivery units;
- F. Minimizes the time between receipt of funds from Billings and their disbursement by the Engineer;
- G. Provides accounting records supported by source documentation; and

- H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

In the event that any funding source for this Contract should impose additional requirements upon Billings for the use of those funds, the Engineer agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Billings.

Section 15. Subcontracts.

The Engineer may enter into subcontracts for the purchase of goods and services necessary for the performance of this Contract, provided:

- A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefor.
- B. Every subcontract under which the Engineer delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Engineer.
- C. Every subcontract in an amount exceeding \$1,000 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.

**PART II**  
**GENERAL CONTRACT PROVISIONS**

Section 1. Relationship of Parties.

The Engineer shall perform its obligations hereunder as an independent Engineer of Billings. Billings may administer the Contract and monitor the Engineer's compliance with its obligations hereunder. Billings shall not supervise or direct the Engineer other than as provided in this Section.

Section 2. Nondiscrimination.

- A. The Engineer will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, or marital status or who is a "qualified individual with a disability" (as that phrase is defined in the Americans With Disabilities Act of 1990). The Engineer will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, or mental or physical impairment/disability. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Engineer agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- B. The Engineer shall state, in all solicitations or advertisements for employees to Work on Contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.
- C. The Engineer shall comply with any and all reporting requirements that may apply to it which the City of Billings may establish by regulation.
- D. The Engineer shall include the provisions of Subsections A through C of this Section in every subcontract or purchase order under this Contract, so as to be binding upon every such subcontractor or vendor of the Engineer under this Contract.
- E. The Engineer shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.

Section 3. Permits, Laws, and Taxes.

The Engineer shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this Contract. All actions taken by the Engineer under this Contract shall comply with all applicable statutes, ordinances, rules and regulations. The Engineer shall pay all taxes pertaining to its performance under this Contract.

Section 4. Nonwaiver.

The failure of either party at any time to enforce a provision of this Contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this Contract or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 5. Amendment.

- A. This Contract shall only be amended, modified or changed by a writing, executed by authorized representatives of the parties, with the same formality as this Contract was executed.
- B. For the purposes of any amendment modification or change to the terms and conditions of this Contract, the only authorized representatives of the parties are:

Engineer: Mark Bellon, PE, Principle in Charge  
(title of position)

Billings: City Council or Authorized Designee

- C. Any attempt to amend, modify, or change this Contract by either an unauthorized representative or unauthorized means shall be void.

Section 6. Jurisdiction; Choice of Law.

Any civil action rising from this Contract shall be brought in the District Court for the Thirteenth Judicial District of the State of Montana, Billings. The law of the State of Montana shall govern the rights and obligations of the parties under this Contract.

Section 7. Severability.

Any provision of this Contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the Contract.

Section 8. Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

The Engineer shall indemnify, defend, save, and hold Billings harmless from any and all claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of the Engineer or any agent, employee or subcontractor as a result of the Engineer's or any subcontractor's performance pursuant to this Contract.

- A. The Engineer shall not indemnify, defend, save and hold Billings harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Billings occurring during the course of or as a result of the performance of the Contract.
- B. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Billings and the Engineer, the Engineer shall indemnify, defend, save, and hold Billings harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the Engineer's or any subcontractor's wrongful or negligent acts occurring as a result from the Engineer's performance pursuant to this Contract.

Billings shall indemnify, defend, save, and hold the Engineer harmless from any and all claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of Billings or any agent, employee or subcontractor as a result of Billings' or any subcontractor's performance pursuant to this Contract.

- A. Billings shall not indemnify, defend, save and hold the Engineer harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of the Engineer occurring during the course of or as a result of the performance of the Contract.
- B. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Billings and the Engineer, Billings shall indemnify, defend, save, and hold the Engineer harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from Billings' or any subcontractor's wrongful or negligent acts occurring as a result from Billings' performance pursuant to this Contract.

#### Section 10. Inspection and Retention of Records.

The Engineer shall, at any time during normal business hours and as often as Billings may deem necessary, make available to Billings, for examination, all of its records with respect to all matters covered by this Contract for a period ending three years after the date the Engineer is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Engineer shall submit such other information and reports relating to its activities under this Contract, to Billings, in such form and at such times as Billings may reasonably require. The Engineer shall permit Billings to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by this Contract. Billings may, at its option, permit the Engineer to submit its records to Billings in lieu of the retention requirements of this Section.

Section 11. Availability of Funds.

Payments under this Contract may require funds from future appropriations. If sufficient funds are not appropriated for payments required under this Contract, this Contract shall terminate without penalty to Billings; and Billings shall not be obligated to make payments under this Contract beyond those which have previously been appropriated.

IN WITNESS WHEREOF, the parties have executed this Contract on the date and at the place shown below.

City of Billings

Engineer

\_\_\_\_\_  
City Council or Designee

\_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

IRS Tax ID # \_\_\_\_\_

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

Date: \_\_\_\_\_

By \_\_\_\_\_

BRENT BROOKS, City Attorney

STATE OF MONTANA            )  
  :ss.  
COUNTY OF YELLOWSTONE    )

On this \_\_\_\_ day of \_\_\_\_\_, 2017, before me, the undersigned, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged to me that they executed the foregoing instrument on behalf of said corporation having first been authorized to do so.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at Billings, Montana  
My Commission Expires: \_\_\_\_\_

**Note:**       **Final contract documents will require the Engineer's signature to be notarized.**

## Appendix A

### Basic Services of Engineer City of Billings W.O. 17-14 Grand Avenue Water and Sanitary Sewer Extension Project

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#### Section 1. Engineer's Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the Engineer's portion of the project as defined in the scope of work and to prepare and deliver to Billings all plans, specifications, bid documents, and other material as designated herein.
- B. Ascertain such information as may have a bearing on the work from local units of government, utility companies, and private organizations and shall be authorized to procure information from other authorities besides Billings, but shall keep Billings advised as to the extent of these contacts and the results thereof.
- C. Prepare and present such information as may be pertinent and necessary in order for Billings to pass critical judgment on the features of the work. The Engineer shall make changes, amendments or revisions in the detail of the work as may be required by Billings. When alternates are being considered, Billings shall have the right of selection.
- D. Engineer's work shall be in accordance with the standards of sound engineering and present City, State, and National standards and policies currently in use.
- E. Conform to the requirements of the Montana Code Annotated Title 18 "Public Contracts" and more particularly Sections 18-2-121 and 18-2-122, and all other codes of the State of Montana applicable to providing professional services including codes and standards nationally recognized.
- F. The Engineer shall certify with the submission of final plans that the plans are in conformance with applicable sections of Title 69, Chapter 4, Part 5, of the Montana Code Annotated as pertaining to existing utilities.
- G. To perform professional services in connection with the project and will serve as Billings' representative in those phases of the project to which this agreement applies.
- H. Where Federal funds are involved, the necessary provisions to meet all requirements will be complied with and documents secured and placed in the bidding documents.
- I. Submit an estimated progress schedule as to time and costs at the beginning of the work, and monthly progress reports thereafter until complete. The reports will include any problems, potential problems, and delays as foreseen by the Engineer. Reports will be submitted in a timely manner to permit prompt resolution of problems.

- J. Name a Task Director who shall be the liaison between Billings and the Engineer. For this project, the Task Director designated for the Engineer is Kolten Knatterud, PE working under the Principal-in-Charge, Mark Bellon, PE.

Section 2. Billings Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete Billings' portion of the project as designated in the scope of work.
- B. Name a Task Director who shall be the liaison between the Engineer and Billings. For this project, the Task Director designated is Randy Straus, PE working under the City Engineer, Debi Meling, PE.

Section 3. Scope of Work.

**SCOPE OF WORK:**

The scope of work covered by this agreement is described hereafter:

## TERRITORIAL LANDWORKS, INC.

<b>Consulting Scope of Services &amp; Cost Estimate</b>					
<b>PROJECT NAME:</b>		City of Billings - Grand Avenue Water & Sewer Main Extension	<b>DATE:</b> 11/2/2016		
Item No.	Description	Scope	TLI Services	Direct Expenses	Agency Review Fees
107	Pre-Design Meeting and Project Coordination	TLI design team members to meet with City Engineering to obtain as-built records and discuss project goals, schedule, and coordination.	\$ 100.00		
110	Property Information/Research	TLI will research and identify adjacent landowners, utility providers, irrigation agencies, and stakeholders impacted by the project. We will research development plans and entitlements for adjacent properties to determine if any accommodations are necessary for any known future extensions from the water/sewer trunk lines.	\$ 934.00		
116	Feasibility Analysis - Open Trench vs Directional Boring	TLI will prepare a preliminary engineers' estimate of quantities and construction costs for the project for two construction scenarios 1) Open Trench Construction 2) Directional Drilling construction, for the sewer and water main. We will look at the logistics of each scenario and combinations of each and make recommendation to the City on construction method for this project.	\$ 1,111.00		
199	Series 100 Exceptions	Unless a service is listed in the Scope of Services (Scope), it should be assumed that the service is not included at this time. If additional services which are not listed in the Scope are identified or desired, an amendment to the Scope will be necessary and can be provided along with the appropriate financial adjustment.	\$ -		
<b>Series 100 Total</b>			<b>\$ 2,145.00</b>	<b>\$ -</b>	<b>\$ -</b>
<b>200 Series - Field Work &amp; Surveying</b>					
Item No.	Description	Scope	TLI Services	Direct Expenses	Agency Review Fees
200	Project Management	TLI project meetings, schedule, and project coordination associated with the 200 Series portion of work.	\$ 946.00		
205	Geotechnical Investigation	TLI will direct SK Geotechnical to complete subsurface boring investigations to determine existing soil and groundwater conditions. TLI will monitor boring results while mobilized to verify soil consistency and adequacy of testing frequency. TLI will work with SK and City Engineering to evaluate ground-water conditions, trenching construction, bedding and backfill requirements, street typical gravel/paving sections, including geotechnical enhancements i.e. grid or fabric recommendations and subsurface utility design considerations. We will report findings and design recommendations to City Engineering. Per discussion with the City Project Manager, we recommend installing additional groundwater monitoring wells so groundwater levels can be assessed by the Contractor for their required dewatering design/plan.	\$ 1,018.00	\$ 17,673.00	
215	R/W - Survey Research	PLS/Survey Department to perform necessary research to determine the R/W width and location within the project area. Initial review will determine whether additional easements or R/W that may be needed. Initial research indicates a 60' R/W width, with additional R/W dedications being made by the adjacent subdivisions.	\$ 760.00		
226	Control & R/W Survey	Primary and tertiary control points will be placed at inter-visible locations along the project corridor. Control will be observed using a combination of GPS and robotic total station observations, with the resultant control referenced to the Montana State Plane Coordinate System (at ground) and NAVD88 vertical datum. This control will also be utilized for the topographic mapping and construction staking phases. Survey measurements will also be made to existing surveys along the route to enable the determination of the R/W limits.	\$ 1,240.00	\$ 100.00	
229	Utility Coordination, Research, and Pre-Survey Utility Locate	Existing utilities will be located utilizing a local utility locate service. We will identify utility owners, review utility records, and survey existing utility locations based on locates.	\$ 1,018.00		
232	Right-of-Way Street Corridor Mapping	TLI survey crews will visit the site and ties structures, improvements, site features and ground elevations sufficient to create an accurate map of the site. Contours will be generated at one-foot intervals based upon the collected data, creating a surface suitable for design. Site features include, but are not limited to: mail boxes, utility lines, fences, power poles, wells, pathways, driveways and signs. Mapping will be completed and referenced to the previously established control on the Montana State Plane Coordinate System and the vertical datum will be referenced to NAVD88.	\$ 2,218.00	\$ 200.00	
238	R/W Reduction	PLS will reduce survey data from the field in conjunction with previously obtained exhibits, deeds, easements, plats and R/W plans to establish project right-of-way boundaries. Retraced boundaries will be superimposed onto project drawings.	\$ 880.00		
241	Mapping Reduction	Time included for TLI draftsman to reduce survey data, topography, and utility mapping into AutoCAD digital format for use in engineering designs. Resultant mapping and surface data will be shown and referenced to the existing R/W. Digital line work and surface data will be reviewed for quality and completeness prior to onset of civil design.	\$ 1,110.00		

299	Series 200 Exceptions	Unless a service is listed in the Scope of Services (Scope), it should be assumed that the service is not included at this time. If additional services which are not listed in the Scope are identified or desired, an amendment to the Scope will be necessary and can be provided along with the appropriate financial adjustment.			
			Series 200 Total	\$ 9,190.00	\$ 17,973.00
<b>500 Series - MDEQ: Applications, Deviation Requests</b>					
Item No.	Description	Scope	TLI Services	Direct Expenses	Agency Review Fees
500	Project Management	TLI project meetings, schedule, and project coordination associated with this portion of work.	\$ 400.00		
555	DEQ 2 Sewer System, Report	Prepare a Sewer Main Certified Checklist for the sewer main extension. This checklist requires a thorough review of the plans against MDEQ's Circular DEQ-2. In addition, we will need to prepare a simple design report in accordance with Circular DEQ-2. This includes getting certification from the City that they will retain a PE to certify the improvements and review by the governing body's Engineering staff for the main extension plans. Assumes there will be no Deviation requests.	\$ 1,399.00		
558	DEQ 2 Sewer System, Construction Plans	Complete Construction Plans will be prepared depicting plan and profile for approximately 900 lineal feet of sewer, with manholes, City of Billings details and specifications for site specific conditions.	\$ 4,247.00		
577	DEQ 1 Water System, Report	Given this is a simple water main extension, the MDEQ Certified Checklist for water mains will be used. This checklist requires a thorough review of the plans against MDEQ's Circular DEQ-1 for compliance. In addition, a simple design report will be prepared in accordance with Circular DEQ-1. This includes getting certification from the City that they will retain a PE to certify the improvements and review by the governing body's Engineering staff for the main extension plans. Assumes there will be no Deviation requests.	\$ 1,399.00		
580	DEQ 1 Water System, Construction Plans	Complete Construction Plans will be prepared depicting plan and profile for approximately 900 lineal feet of water with valves, bends, and appurtenances. Typical City of Billings details and specifications will be included.	\$ 4,603.00		
591	MDEQ Submittal	Finalize DEQ-1 and DEQ-2 packets, copy, and send in. Estimate of review fees included as reimbursable expense. Note that review fees have been calculated on preliminary layouts and actual fees may vary pending final designs and lot layout. Fees will be reimbursed by the Client at cost.	\$ 478.00		\$ 950.00
599	Series 500 Exceptions	Unless a service is listed in the Scope of Services (Scope), it should be assumed that the service is not included at this time. If additional services which are not listed in the Scope are identified or desired, an amendment to the Scope will be necessary and can be provided along with the appropriate financial adjustment.	\$ -		
			Series 500 Total	\$ 12,526.00	\$ 950.00
<b>600 Series - Final Design Development and Agency Coordination</b>					
Item No.	Description	Scope	TLI Services	Direct Expenses	Agency Review Fees
600	Project Management	TLI project meetings, schedule, and project coordination associated with the 600 Series portion of work.	\$ 400.00		
618	Existing Roadway - Section Replacement	It is assumed the replacement roadway section will be designed by SK to match the existing roadway section and will be called out in a typical asphalt restoration detail. No additional roadway plans or design will be provided.	\$ 456.00		
606	Design Development - 30% Construction Set (Horizontal Layout)	TLI will meet with the City of Billings to review the plan set and go over the site specific items identified to be addressed as part of the design. Time included to coordinate the meeting, attend the meeting, and follow up in writing with issues identified.	\$ 509.00		
610	Design Development - 70% Construction Set	70% plans sets will include plan/profile and details and address site specific conditions. Plans will include all 30% elements which will be supplemented with vertical design elements. Vertical design will be finalized including design profiles, pertinent spot elevations, and finished grade contours.	\$ 509.00		
612	Design Development - 90% Construction Set	90% plans sets will include specific call outs and final specifications. Plans will include all 70% elements which will be supplemented with notes, specifications, callouts, and non-typical detailing. Note that costs for development of the Sewer and Water Main Extension plans is included in Item No. 558 and 580.	\$ 509.00		
612	Design Development - 100% Construction Set	100% will incorporate and design specifications and be submitted to City for Construction.	\$ 351.00		
618	Utility Coordination - Plan Circulation and Review	Upon development of 30%-70% construction plans utility companies will be contacted and provided with cursory set of plans for review and comment. Assumes 1 meeting will be scheduled to discuss utility issues.	\$ 1,018.00		
646	Irrigation Ditch Coordination - Plan Circulation and Review	Upon development of 30%-70% construction plans irrigation companies will be contacted and provided with cursory set of plans for review and comment. Assumes 1 meeting will be scheduled to discuss irrigation facility impacts.	\$ 698.00		
654	Neighborhood Notification and Public Meeting	A notification letter will be sent to residents and property owners including school officials after designs are complete in order to inform affected citizens of the impacts expected from the upcoming project. Time also included to advertise and host on e public meeting after designs are complete to answer questions and solicit feedback regarding the construction schedule.	\$ 2,124.00		
662	Traffic Control Plan	Due to school traffic TLI will develop mandates incorporated into the project special provisions directing the contractor to mitigate impacts to traffic with their traffic control plan. The Contractor will be responsible for all Traffic Control Plans and implementation processes.	\$ 1,574.00		

699	Series 600 Exceptions	Unless a service is listed in the Scope of Services (Scope), it should be assumed that the service is not included at this time. If additional services which are not listed in the Scope are identified or desired, an amendment to the Scope will be necessary and can be provided along with the appropriate financial adjustment.			
			Series 600 Total	\$ 8,148.00	\$ -
<b>800 Series - Construction Administration, Inspections, and Staking</b>					
Item No.	Description	Scope	TLI Services	Direct Expenses	Agency Review Fees
800	Project Management	TLI project meetings, schedule, and project coordination associated with the 800 Series portion of work.	\$ 2,432.00		
801	Contract Documents and Special Provisions	TLI will prepare a Project Manual with Project Drawings, Specifications, and City Contract Documents formatted per City of Billings Standard MODS and Contract Documents. The Contract will include an itemized bid schedule and will integrate the City of Billings Project Special Conditions and applicable contract forms prepared for City Council Approval. The Contract Documents will include the following sections: Invitation to Bid, Instructions to Bidders, Acknowledgment of Receipt of Addendum, Bid Form and Unit Price Schedule, Bid Bond, Notice of Award, Agreement, Payment and Performance Bonds, Notice to Proceed, Change Order Form, Application for Payment Form, Certificate of Completion Form, General Conditions, Supplementary Conditions, Wage Rates, EEO Requirement Provisions, City of Missoula Special Provisions, and TLI Special Provisions. The contract documents will also include the Final Construction Drawings. Assumes no Federal Funds will be used.	\$ 2,735.00		
803	Quantity Estimates	Based on Final Construction Drawings, TLI will compute final quantities of Site work items for the bid schedule and Engineer's Cost Estimate.	\$ 1,168.00		
805	Engineer's Cost Estimate	A detailed engineer's estimate for the project will be provided to City Engineering for project cost verification and bid comparison reference. TLI will use historical bid date to finalize the Engineer's Cost Estimate.	\$ 812.00		
807	City of Review Contract Documents, Plans, and Specifications	TLI will provide Final Plans, contract documents, and specifications in the form of a project manual to City of Billings for review and final approval. Assumes City Engineering will coordinate with the City Attorney for cursory review of contract documents.	\$ 622.00		
811	Bidding Assistance	TLI will coordinate bid advertisement and bid solicitation with City of Billings. Answer bidder's questions and attend pre-bid meeting to present project to interested contractors. Assist with bid opening, review of bids and bid bond for compliance with specifications, prepare bid tabulation for review, and provide recommendation to City for award. Upon approval for award by the City, TLI will issue the Notice of Award.	\$ 1,234.00		
813	Neighborhood Notification - Public Relations	Our team will work with the Contractor and the City to implement public relation measures necessary to inform the public of upcoming project schedules and identify a medium to provide weekly updates to stakeholders. Assumes one notification letter will be sent to stakeholders and weekly updates provided to the City to be posted on their website.	\$ 700.00		
815	Contract Administration	TLI will coordinate and attend a pre-construction meeting with City Engineering and the selected Contractor. TLI will review Contractor submittals including schedule, shop drawings, payment, and performance bonds. TLI will issue a Notice to Proceed, review payment applications, setup and attend weekly meetings with the City and Contractor to process any field orders, work change directives, change orders, and delegation of miscellaneous bid items. TLI will administer the construction contract in conjunction with construction inspections and closely track quantities and strictly adhere to and utilize contract provisions. Weekly updates will be provided to City Engineering and they will be immediately notified of any issues encountered with construction. Public Notification Prior to Construction: TLI will assist with the notification of local residents and property owners to inform them of the Contractor's Project Schedule and Traffic Control Plan.	\$ 5,691.00		
819	Control Survey and Remonumentation Survey	Perform preconstruction control verification survey. Verify all control monuments are in place and tied to construction survey tolerances. Time included to develop control diagram and table for distribution to contractor. Re-set centerline monuments after construction where applicable and file appropriate corner	\$ 2,390.00	\$ 300.00	
821	Sewer Main and Appurtenance Construction Staking	Survey Crew will provide stakes for the sewer manholes, sewer main alignment/profile and appurtenances per the approved construction plans. TLI will provide one set of offset stakes to top back of inlet or center of manhole and at 25 foot intervals for each pipe as needed to layout and construct sewer improvements. Additional staking and re-staking required by contractor will be completed at contractor's expense in accordance with the contract documents. Cut sheets will be provided to contractor.	\$ 1,752.00	\$ 100.00	
823	Water Main and Appurtenances Construction Surveying	Survey crew will provide stakes for the water main alignment and appurtenances per the approved design plans. Assumes stakes will be needed at 50 foot intervals along station, and at beginning and end of pipe, connections, horizontal or vertical bend, valves, tees, blow offs, air reliefs, hydrants, and the location of the water service connection at the main. Stakes will be provided at set offsets as outlined by the contractor and assumes that work can be completed in 1 visit. Crew will collect "as-staked" information for verification of stake accuracy.	\$ 1,752.00	\$ 100.00	

827	Design Exception Staking Misc. Staking	Time included for 1 day of mapping for value engineering, grade checks, restaking per City and other exceptions encountered with design upgrade directives.	\$ 1,469.00	\$ 100.00	
837	Construction Staking - Grade Control for Roadway Reconstruction	Survey crew will provide offset stakes to centerline, finished grade. Assumes stakes will be needed every 50 feet along station and at grade brakes.	\$ 1,813.00	\$ 75.00	
871	Construction Inspection	TLI will provide full-time construction oversight to ensure Contractor is completing project in substantial compliance with the Plans and Specifications. Inspections will be documented and included in final close-out documents for project. Assumes a (45) day construction schedule and includes weekly on-site meeting with TLI, City Engineering, and Contractor. Services will include complete project documentation including daily diaries and photographs in conformance with City of Billings and industry standards; coordinate with testing technicians and third party stakeholders; Ensure materials are documented and meet project specifications; Identify non-compliant work in timely manner for correction; Document and track project quantities; Verify quality and content of work complies with contract documents; Ensure project documents are accurate and current; Document and report field conditions to City and design team; Coordinate daily with design team and City Engineering; Establish progress report schedule.	\$ 29,778.00		
873	Material Testing	Time for coordination with material testing sub-contractor.	\$ 1,068.00	\$ 18,166.00	
875	Final Walkthrough after Certificate of Substantial Completion	TLI will process Substantial Completion form at the request of the contractor. TLI will participate in the preliminary walkthrough with Contractor and City of Billings. Upon completion of any punch list items TLI will participate in final walkthrough with the City of Billings, and Contractor prior to final project acceptance. All deficiencies/corrections will be noted and documentation will be provided to the	\$ 356.00		
899	Series 800 Exceptions	Unless a service is listed in the Scope of Services (Scope), it should be assumed that the service is not included at this time. If additional services which are not listed in the Scope are identified or desired, an amendment to the Scope will be necessary and can be provided along with the appropriate financial adjustment.	\$ -		
<b>Series 800 Total</b>			<b>\$ 55,772.00</b>	<b>\$ 19,541.00</b>	<b>\$ -</b>
<b>900 Series - Final Project Documentation</b>					
Item No.	Description	Scope	TLI Services	Direct Expenses	Agency Review Fees
900	Project Management	TLI project meetings, schedule, and project coordination associated with the 900 Series portion of work.	\$ 323.00		
902	Final Inspection	Final inspection with contractor and City Engineering	\$ 356.00		
911	Construction As-Builts - Water	TLI will utilize field notes and inspection records to develop as-built plans for the water main extension.	\$ 345.00		
914	Construction Certifications - Water	TLI will prepare the required attachments as-built plans, materials testing results, photographs, final AutoCAD drawings, inspection reports, etc. to certify the water main extension to the City of Billings.	\$ 501.00		
917	Construction As-Builts - Sewer	TLI will utilize field notes and inspection records to develop as-built plans for the sewer main extension.	\$ 345.00		
920	Construction Certifications - Sewer	TLI will prepare the required attachments as-built plans, materials testing results, photographs, final AutoCAD drawings, inspection reports, etc. to certify the sewer main extension to the City of Billings.	\$ 501.00		
962	Warranty Inspection	12 months after certificate of completion has been issued, TLI will schedule warranty inspections with the contractor, City Engineering - any warranty items will be discussed and resolved.	\$ 456.00		
999	Series 900 Exceptions	Unless a service is listed in the Scope of Services (Scope), it should be assumed that the service is not included at this time. If additional services which are not listed in the Scope are identified or desired, an amendment to the Scope will be necessary and can be provided along with the appropriate financial adjustment.	\$ -		
<b>Series 900 Total</b>			<b>\$ 2,827.00</b>	<b>\$ -</b>	<b>\$ -</b>

<b>Project Summary</b>		TLI Services	Direct Expenses	Agency Review Fees
Item No.	Description			
100 Series -	Preliminary Project Assessment and Planning	\$ 2,145.00	\$ -	\$ -
200 Series -	Field Work & Surveying	\$ 9,190.00	\$ 17,973.00	\$ -
500 Series -	MDEQ: Applications, Deviation Requests	\$ 12,526.00	\$ -	\$ 950.00
600 Series -	Final Design Development and Agency Coordination	\$ 8,148.00	\$ -	\$ -
800 Series -	Construction Administration, Inspections, and Staking	\$ 55,772.00	\$ 19,541.00	\$ -
900 Series -	Final Project Documentation	\$ 2,827.00	\$ -	\$ -
Total Consulting and Reimbursable		<b>\$ 90,608.00</b>	<b>\$ 37,514.00</b>	<b>\$ 950.00</b>
Total Estimate including Reimbursable		<b>\$129,072.00</b>		

## Appendix B

### Methods and Times of Payment City of Billings W.O. 17-14 Grand Avenue Water and Sanitary Sewer Extension Project

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#### Section 1. Payments for Basic Services.

Billings shall authorize payment to the Engineer for services performed under Appendix A of this Agreement. Partial payment shall be due the Engineer upon receipt of the Engineer's pay estimate, said estimate being proportioned to the work completed by the Engineer.

Billings shall deduct five percent (5%) from each monthly pay estimate to be held until the completion of the final scope of work. The final payment shall be made only after acceptance of final documents by Billings, and determination that the scope of work has been satisfactorily completed.

- A. For services rendered prior to construction, Appendix A, the Engineer shall be paid based upon actual time accrued, but not to exceed \$129,072.00 (One Hundred Twenty Nine Thousand Seventy Two and 00/100 dollars) based on the following tasks:

100 Series – Preliminary Project Assessment and Planning	\$2,145
200 Series – Field Work & Surveying	\$27,163
500 Series – MDEQ: Applications, Deviation Requests	\$13,476
600 Series – Final Design Development and Agency Coordination	\$8,148
800 Series – Construction Administration, Inspections and Staking	\$75,313
900 Series – Final Project Documentation	\$2,827

- B. Final payment shall be the above stated basic fee less all previous payments.

#### Section 2. Payments for Extra Services when Authorized by Billings.

Work requests made or conditions identified by interested groups at the agency or public meetings which are beyond the scope and intent of this project shall be paid for on an hourly basis at the applicable fees in Appendix D or by an addendum to the agreement.

#### Section 3. Corrections.

Costs of Billings' work that is required for the purpose of correcting the Engineer's work shall be deducted from any payments due the Engineer if the Engineer fails to make the required corrections.

#### Section 4. Fee Increases

For contracts and services that are expected to require more than one (1) year to complete, the above stated basic services payments may be reviewed and adjusted annually by mutual agreement of the parties, based upon documented evidence that the Engineer's costs and hourly rates as shown in Appendix D have increased for all comparable clients.

## **Appendix C**

### **Additional Services of Engineer City of Billings W.O. 17-14 Grand Avenue Water and Sanitary Sewer Extension Project**

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Extra Services of the Engineer will be paid only with written prior authorization by Billings.

- A. Requests made or conditions identified which are beyond the scope and intent of the services identified under Appendix A.

## **Appendix D**

### **Schedule of Professional Fees City of Billings W.O. 17-14 Grand Avenue Water and Sanitary Sewer Extension Project**

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Current agreements for engineering services stipulate that the standard hourly rates are subject to review and adjustments. Hourly rates for services effective on the date of this Agreement are included below.

The itemized schedule provided below includes direct labor costs, normal payroll and overhead costs, transportation, furnishing equipment and materials normally required for performance of the work and reasonable profit. Direct project costs not itemized herein shall be paid for at actual cost.

Rate changes may be made to the fee schedule by the Engineer to reflect increased salaries and other business costs. Engineer shall submit a revised rate schedule at the time of the change if requested by the Owner. Rate schedule changes made by the Engineer during the term of this Contract shall not alter the maximum project professional fee set forth in the Contract. Changes that alter the maximum project professional fee are covered in Appendix B.

The cost of Professional Liability Insurance coverage is included in the hourly rates of personnel.



**STANDARD BILLING RATES**  
**Missoula and Billings Offices**  
**Rates Effective through February 28, 2017**

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**Professional Services:**

Principal Project Manager.....	\$131 / hour
Senior Project Manager.....	\$115 / hour
Project Manager.....	\$100 / hour
Land Survey Technician.....	\$95 / hour
Production Staff.....	\$89 / hour
Technician.....	\$78 / hour

*Principal Project Managers, Senior Project Managers, Project Managers, Production Staff, and Technicians include engineers (professional and intern), surveyors (professional and intern), registered sanitarians, scientists, land use planners and water/waste Water operators.*

**Draftsperson**

Lead Draftsperson.....	\$89 / hour
Design Draftsperson.....	\$84 / hour
Technical Draftsperson.....	\$78 / hour

**Support Staff**

Project Assistant.....	\$61 / hour
Marketing Specialist.....	\$53 / hour
Clerical & Administrative.....	\$48 / hour

**Survey Crews**

1-Person Crew.....	\$100 / hour
2-Person Crew.....	\$145 / hour
Survey Assistant (extra if needed).....	\$60 / hour

*The number of survey crew members necessary to safely and efficiently complete survey field work will be determined on a case by case basis specific to each project.*

**Equipment Rates**

Company Vehicle.....	\$0.54 / mile
GPS/Robotics.....	\$75 / day
ATV.....	\$50 / day
Well sounder.....	\$25 / day
Submersible Pump.....	\$20 / day

**Reimbursable Expenses**

Approved per diem.....	\$35 / day
Copier Reproduction.....	\$0.05 / page
Prints (plotting).....	\$0.10 / square foot
Sub-consultants.....	Cost + 10%
Agency Review Fees.....	Cost
Direct Project Expenses.....	Cost

## Appendix E

### Project Schedule City of Billings W.O. 17-14 Grand Avenue Water and Sanitary Sewer Project

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Based on a notice to proceed by Billings date no later than February 27, 2017, the completion date for the Engineer's work through final design shall be:

1. Preliminary Engineering Services (30% Design): May 1, 2017
2. Preliminary Engineering Services (70% Design): May 22, 2017
3. Preliminary Engineering Services (90% Design): June 5, 2017
4. Final Engineering Services (100% Design): June 19, 2017
5. Construction Services to be based on Contractor Schedule.

Delays affecting the completion of the work within the time specified of more than ninety (90) days, not attributable to or caused by the Parties hereto, may be considered as cause for the renegotiation or termination of this Contract.

If the Engineer is behind on this Contract due to no fault of Billings, then the Engineer hereby acknowledges the right of Billings to withhold future Contracts to the Engineer in addition to any other remedy until this Contract is brought back on schedule or otherwise resolved.

**Appendix F**

**Certificate(s) of Insurance  
City of Billings W.O. 17-14  
Grand Avenue Water and Sanitary Sewer Extension Project**

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Attach Certificate(s) of Insurance





TERRINC-04

KMUZZANA

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
1/25/2017

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

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


<b>PRODUCER</b> License # 0696868 <b>HUB International Mountain States Limited</b> 2703 Connery Way Missoula, MT 59808	<b>CONTACT NAME:</b> Kaye Muzzana <b>PHONE (A/C, No, Ext):</b> (406) 532-3896 <b>FAX (A/C, No):</b> <b>E-MAIL ADDRESS:</b> kaye.muzzana@hubinternational.com													
	<table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A : Travelers Casualty &amp; Surety Company of America</td> <td>31194</td> </tr> <tr> <td>INSURER B :</td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Travelers Casualty & Surety Company of America	31194	INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :
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INSURER C :														
INSURER D :														
INSURER E :														
INSURER F :														
<b>INSURED</b>  Territorial-Landworks, Inc. P O Box 3851 Missoula, MT 59806														

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY			105386881	01/01/2017	01/01/2018	EACH OCCURRENCE \$ 2,000,000
	<input checked="" type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 0
	<input checked="" type="checkbox"/> Errors and Omissions						MED EXP (Any one person) \$ 0
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						PERSONAL & ADV INJURY \$ 0
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 0
							\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per person) \$
	<input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED    RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE    OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input type="checkbox"/> N/A						E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
re: W.O. 17-14 Grand Avenue Water and Sanitary Sewer Extension Project.

<b>CERTIFICATE HOLDER</b>  City of Billings 2224 Montana Avenue Billings, MT 59101	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ARCHITECTS, ENGINEERS AND SURVEYORS XTEND ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**GENERAL DESCRIPTION OF COVERAGE** Provisions A. – T. and V. of this endorsement broaden coverage. Provisions U. and W. of this endorsement may limit coverage. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the **PROVISIONS** of this endorsement carefully to determine rights, duties, and what is and is not covered.

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>A. Broadened Named Insured</li> <li>B. Incidental Medical Malpractice</li> <li>C. Reasonable Force – Bodily Injury Or Property Damage</li> <li>D. Non-Owned Watercraft – Increased To Up To 75 feet</li> <li>E. Aircraft Chartered With Crew</li> <li>F. Extension Of Coverage – Damage To Premises Rented To You</li> <li>G. Malicious Prosecution – Exception To Knowing Violation Of Rights Of Another Exclusion</li> <li>H. Medical Payments Limit</li> <li>I. Increased Supplementary Payments</li> <li>J. Additional Insured – Owner, Manager Or Lessor Of Premises</li> <li>K. Additional Insured – Lessor Of Leased Equipment</li> <li>L. Additional Insured – State Or Political Subdivisions – Permits Relating To Premises</li> <li>M. Additional Insured – State Or Political Subdivisions – Permits Relating To Operations</li> </ul> | <ul style="list-style-type: none"> <li>N. Additional Insured – Architect, Engineer Or Surveyor</li> <li>O. Who Is An Insured – Newly Acquired Or Formed Organizations</li> <li>P. Who Is An Insured – Unnamed Partnership Or Joint Venture – Excess</li> <li>Q. Per Project General Aggregate Limit</li> <li>R. Knowledge And Notice Of Occurrence Or Offense</li> <li>S. Unintentional Omission</li> <li>T. Waiver Of Transfer Of Rights Of Recovery Against Others To Us When Required By Contract Or Agreement</li> <li>U. Amended Bodily Injury Definition</li> <li>V. Amended Insured Contract Definition – Railroad Easement</li> <li>W. Amended Property Damage Definition – Tangible Property</li> <li>X. Additional Definition – Contract or Agreement Requiring Insurance</li> </ul> |
|---|--|

### **PROVISIONS**

#### **A. BROADENED NAMED INSURED**

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

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

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

2. This Provision A. does not apply to any person or organization for which coverage is excluded by another endorsement to this Coverage Part.

#### **B. INCIDENTAL MEDICAL MALPRACTICE**

1. The following is added to Paragraph 1. Insuring Agreement of **COVERAGE A BODILY**

**INJURY AND PROPERTY DAMAGE LIABILITY in COVERAGES (Section I):**

"Bodily injury" arising out of the rendering of, or failure to render, "first aid" or "Good Samaritan services" to a person, other than a co-"employee" or "volunteer worker", will be deemed to be caused by an "occurrence". For the purposes of determining the applicable limits of insurance, any act or omission together with all related acts or omissions in the furnishing of the services to any one person will be deemed one "occurrence".

2. As used in this Provision B:
  - a. "First aid" means medical or nursing service, treatment, advice or instruction; the related furnishing of food or beverages; the furnishing or dispensing of drugs or medical supplies or appliances;
  - b. "Good Samaritan services" means those medical services rendered or provided in an emergency and for which no remuneration is demanded or received.
3. Paragraph 2.a.(1)(d) of **WHO IS AN INSURED (Section II)** does not apply to any of your "employees", who are not employed as a doctor or nurse by you, but only while performing the services described in Paragraph 1. above and while acting within the scope of their employment by you. Any such "employees" rendering "Good Samaritan services" will be deemed to be acting within the scope of their employment by you.

4. The following exclusion is added to Paragraph 2. **Exclusions of COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY in COVERAGES (Section I):**

**Sale of Pharmaceuticals**

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

5. The insurance provided by this Provision B. shall be excess over any valid and collectible other insurance available to the insured, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by you to apply in excess of the Limits of Insurance shown in the Declarations for this Coverage Part.

**C. REASONABLE FORCE – BODILY INJURY OR PROPERTY DAMAGE**

The **Expected Or Intended Injury** Exclusion in Paragraph 2. **Exclusions of COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY in COVERAGES (Section I)** is deleted and replaced by the following:

**Expected Or Intended Injury Or Damage**

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

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

1. The exception contained in Subparagraph (2) of the **Aircraft, Auto Or Watercraft** Exclusion in 2. **Exclusions of COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY in COVERAGES (Section I)** is deleted and replaced by the following:

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

(a) Less than 75 feet long; and

(b) Not being used to carry persons or property for a charge;

2. Only as respects the insurance provided by this Provision D., **WHO IS AN INSURED (Section II)** is amended to include as an insured any person who, with your expressed or implied consent, either uses or is responsible for the use of the watercraft.

3. The insurance provided by this Provision D. shall be excess over any valid and collectible other insurance available to the insured, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by you to apply in excess of the Limits of Insurance shown in the Declarations for this Coverage Part.

**E. AIRCRAFT CHARTERED WITH CREW**

1. The following is added to the exceptions contained in the **Aircraft, Auto Or Watercraft** Exclusion in Paragraph 2. **Exclusions of COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY in COVERAGES (Section I):**

Aircraft chartered with crew, including a pilot, to any insured.

2. This Provision E. does not apply if the chartered aircraft is owned by any insured.
3. The insurance provided by this Provision E. shall be excess over any valid and collectible other insurance available to the insured, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by you to apply in excess of the Limits of Insurance shown in the Declarations for this Coverage Part.

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

1. The last paragraph of **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** in **COVERAGES (Section I)** is deleted and replaced by the following:

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

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

A separate limit of insurance applies to this coverage as described in **LIMITS OF INSURANCE (Section III)**.

2. The insurance under this Provision F. does not apply to damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:
  - a. Rupture, bursting, or operation of pressure relief devices;
  - b. Rupture or bursting due to expansion or swelling of the contents of any building or structure, caused by or resulting from water; or
  - c. Explosion of steam boilers, steam pipes, steam engines, or steam turbines.
3. Paragraph 6. of **LIMITS OF INSURANCE (Section III)** is deleted and replaced by the following:

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for the sum of all damages because of "property damage" to

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

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

- a. \$1,000,000; or
  - b. The amount shown for the Damage To Premises Rented To You Limit in the Declarations for this Coverage Part.
4. Paragraph a. of the definition of "insured contract" in **DEFINITIONS (Section V)** is deleted and replaced by the following:
    - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water is not an "insured contract";
  5. This Provision F. does not apply if coverage for Damage To Premises Rented To You of **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** in **COVERAGES (Section I)** is excluded by another endorsement to this Coverage Part.

**G. MALICIOUS PROSECUTION – EXCEPTION TO KNOWING VIOLATION OF RIGHTS OF ANOTHER EXCLUSION**

The following is added to the **Knowing Violation Of Rights Of Another Exclusion** in 2. **Exclusions of COVERAGE B PERSONAL INJURY, ADVERTISING INJURY AND WEB SITE INJURY LIABILITY** of the **WEB XTEND LIABILITY Endorsement**:

This exclusion does not apply to "personal injury" caused by malicious prosecution.

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**H. MEDICAL PAYMENTS LIMIT**

The Medical Expense Limit shown in the Declarations for this Coverage Part is increased to \$10,000.

**I. INCREASED SUPPLEMENTARY PAYMENTS**

Paragraphs 1.b. and 1.d. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** in **COVERAGES (Section I)** are amended as follows:

1. In Paragraph 1.b., the amount we will pay for the cost of bail bonds is increased to \$2500.
2. In Paragraph 1.d., the amount we will pay for loss of earnings is increased to \$500 a day.

**J. ADDITIONAL INSURED – OWNER, MANAGER OR LESSOR OF PREMISES**

1. **WHO IS AN INSURED (Section II)** is amended to include as an insured:

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

- a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you have entered into that contract or agreement; and
  - b. Only if the "bodily injury", "property damage" or "personal injury" is caused, in whole or in part, by acts or omissions of you or any person or organization performing operations on your behalf, and arises out of the ownership, maintenance or use of that part of any premises leased to you under that contract or agreement.
2. The insurance provided to such additional insured under this Provision J. is subject to the following provisions:
    - a. The limits of insurance afforded to such additional insured shall be the limits which you agreed to provide in the contract or agreement, or the limits shown in the Declarations for this Coverage Part, whichever are less; and
    - b. The insurance afforded to such additional insured does not apply to:
      - (1) Any "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you cease to be a tenant in that premises;

- (2) Any structural alterations, new construction or demolition operations performed by or on behalf of such additional insured; or

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

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

**K. ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT**

1. **WHO IS AN INSURED (Section II)** is amended to include as an insured:

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

- a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you have entered into that contract or agreement; and
  - b. Only if the "bodily injury", "property damage" or "personal injury" is caused, in whole or in part, by acts or omissions of you or any person or organization performing operations on your behalf, in the maintenance, operation or use of equipment leased to you by such additional insured.
2. The insurance provided to such additional insured under this Provision K. is subject to the following provisions:
    - a. The limits of insurance afforded to such additional insured shall be the limits which you agreed to provide in the contract or agreement, or the limits shown in the Declarations for this Coverage Part, whichever are less; and
    - b. The insurance afforded to such additional insured does not apply:
      - (1) To any "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after the equipment lease expires; or

(2) If the equipment is leased with an operator.

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

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

The following is added to Paragraph 2. of **WHO IS AN INSURED (Section II)** to include as an insured:

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

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

The following is added to Paragraph 2. of **WHO IS AN INSURED (Section II)** to include as an insured:

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

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

**N. ADDITIONAL INSURED – ARCHITECT, ENGINEER OR SURVEYOR**

1. The following is added to Paragraph 2. of **WHO IS AN INSURED (Section II)** to include as an insured:

Any architect, engineer or surveyor engaged by or for you that you agree in a "contract or agreement requiring insurance" to include as an additional insured on this Coverage Part, but only with respect to liability for "bodily injury", "property damage" or "personal injury" that is caused, in whole or in part, by acts or omissions of you or any person or organization acting on your behalf in connection with your premises or "your work".

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

**O. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED ORGANIZATIONS**

1. Paragraph 4.a. of **WHO IS AN INSURED (Section II)** is deleted and replaced by the following:

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

2. This Provision O. does not apply to any organization for which coverage is excluded by another endorsement to this Coverage Part.

**P. WHO IS AN INSURED – UNNAMED PARTNERSHIP OR JOINT VENTURE – EXCESS**

1. The last paragraph of **WHO IS AN INSURED (Section II)** is deleted and replaced by the following:

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 Common Policy Declarations.

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However, this exclusion does not apply to your liability with respect to your conduct of the business of any current or past partnership or joint venture:

- a. That is not shown as a Named Insured in the Common Policy Declarations, and
  - b. In which you are a member or partner where each and every one of your co-ventures in that joint venture is an architectural, engineering, or surveying firm.
2. This Provision P. does not apply to any person or organization for which coverage is excluded by another endorsement to this Coverage Part.
  3. The insurance provided by this Provision P. shall be excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, which is available covering your liability with respect to your conduct of the business of any current or past partnership or joint venture that is not shown as a Named Insured in the Common Policy Declarations and which is issued to such partnership or joint venture.

### Q. PER PROJECT GENERAL AGGREGATE LIMIT

1. Paragraph 2. of **LIMITS OF INSURANCE (Section III)** is deleted and replaced by the following:

The General Aggregate Limit is the most we will pay for the sum of:

- a. Damages under Coverage B; and
  - b. Damages from "occurrences" under Coverage A and for all medical expenses caused by accidents under Coverage C which cannot be attributed only to operations at a single "project".
2. The following is added to **LIMITS OF INSURANCE (Section III)**:

A separate Per Project General Aggregate Limit applies to each "project" for all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Coverage A and for all medical expenses caused by accidents under Coverage C which can be attributed only to operations at a single "project", and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations for this Coverage Part.

Any payments made under Coverage A for damages and under Coverage C for medical expenses shall reduce the Per Project General Aggregate Limit for that "project", but shall not reduce:

- a. Any other Per Project General Aggregate Limit for any other "project";
- b. The General Aggregate Limit; or
- c. The Products-Completed Operations Aggregate Limit.

The limits shown in the Declarations for this Coverage Part for Each Occurrence, Damage To Premises Rented To You and Medical Expense are also subject to the Per Project General Aggregate Limit when the Per Project General Aggregate Limit applies.

3. As used in the Provision Q.:

"Project" means an area away from premises owned by or rented to you at which you are performing operations pursuant to a contract or agreement. For the purposes of determining the applicable aggregate limit of insurance, each "project" that includes premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad shall be considered a single "project".

### R. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE

The following is added to Paragraph 2. **Duties In The Event of Occurrence, Offense, Claim Or Suit of COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV)**:

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

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

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

**S. UNINTENTIONAL OMISSION**

1. The following is added to Paragraph 6. **Representations of COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV)**:

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

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

**T. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US WHEN REQUIRED BY CONTRACT OR AGREEMENT**

The following is added to Paragraph 8. **Transfer of Rights of Recovery Against Others to Us of COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV)**:

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

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

4. "Your products".

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

**U. AMENDED BODILY INJURY DEFINITION**

The definition of "bodily injury" in **DEFINITIONS (Section V)** is deleted and replaced by the following:

"Bodily injury" means:

- a. Physical harm, including sickness or disease, sustained by a person;
- b. Mental anguish, injury or illness, or emotional distress, resulting at any time from such physical harm, sickness or disease; or
- c. Care, loss of services or death resulting at any time from such physical harm, sickness or disease.

**V. AMENDED INSURED CONTRACT DEFINITION - RAILROAD EASEMENT**

1. Subparagraph c. of the definition of "insured contract" in **DEFINITIONS (Section V)** is deleted and replaced by the following:

- c. Any easement or license agreement;

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

**W. AMENDED PROPERTY DAMAGE DEFINITION - TANGIBLE PROPERTY**

The definition of "property damage" in **DEFINITIONS (Section V)** is deleted and replaced by the following:

"Property damage" means:

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

For the purposes of this insurance, tangible property does not include data.

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

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury"

and "property damage" occurs, and the "personal injury" is caused by an offense committed:

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



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)**

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

**A. The following is added to WHO IS AN INSURED (Section II):**

Any person or organization that you agree in a "contract or agreement requiring insurance" to include as an additional insured on this Coverage Part, but only with respect to liability for "bodily injury", "property damage" or "personal 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 premises owned by or rented to you; or
- c. In connection with "your work" and included within the "products-completed operations hazard".

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

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

- d. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.
- e. This insurance does not apply to the rendering of or failure to render any "professional services".
- f. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the **LIMITS OF**

**INSURANCE (Section III)** for this Coverage Part.

**B. The following is added to Paragraph a. of 4. Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):**

However, if you specifically agree in a "contract or agreement requiring insurance" that the insurance provided to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance". But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured under any other insurance.

**C. The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):**

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that person or organization. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with such person or organization entered into by you before, and in effect when, the "bodily

injury" or "property damage" occurs, or the "personal injury" offense is committed.

**D. The following definition is added to DEFINITIONS (Section V):**

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include a person or organization as an additional insured on this Cov-

erage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

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