

## **PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between **THE CITY OF LA HABRA**, (hereinafter referred to as the “**CITY**”), and The Code Group, Inc dba VCA Code, (hereinafter referred to as the “**CONSULTANT**”).

### **RECITALS**

WHEREAS, **CITY** requires professional services for On-Call Plan Check and Building Inspection Services; and,

WHEREAS, the **CONSULTANT** represents that it is qualified and experienced to provide such services; and

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and conditions herein contained, **CITY** and **CONSULTANT** hereby agree as follows:

### **ARTICLE I** **SCOPE OF SERVICES; TERM**

#### 1.1 General Scope of Services.

A. **CITY** hereby engages **CONSULTANT**, and **CONSULTANT** hereby accepts such engagement, to perform the various services set forth in Attachment “A” (the documents contained in Attachment “A” shall be hereinafter referred to as the “Scope of Work”).

B. All professional services to be provided by **CONSULTANT** pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence, and skill ordinarily exercised by professional consultants in similar circumstances in accordance with sound professional practices.

C. Warranty: **CONSULTANT** warrants that it shall perform the professional services required by this Agreement in compliance with the federal and California laws related to minimum hours and wages, including but not limited to, 40 U.S.C.A. §§ 3141, et seq., California Labor Code, §§ 1171, et seq. and California Labor Code, §§ 6300, et seq.; fair employment practices, including but not limited to, 29 U.S.C. 651, et seq.; and fair employment, including but not limited to, 29 U.S.C. 201, et seq., The California Fair Employment and Housing Act California Government Code, §§ 12900, et seq., Title VI of the Civil Rights Act of 1964, as amended, 49 CFR 21 through appendix H and 23 CFR 710.405 (b); and

all other federal, state and local laws and ordinances applicable to the work required under this Agreement.

D. Non-exclusive Agreement. **CONSULTANT** acknowledges that CITY may enter into agreements similar to this Agreement with other consultants.

1.2 Term.

The term of this Agreement shall begin on July 1, 2023 and continue for an original term of one (1) year; or, until such time as it is terminated pursuant to the provisions in Article V of this Agreement. The City shall have one (1) option to extend the term for a period of up to two (2) years, which the City may exercise in its sole, absolute discretion.

**ARTICLE II**  
**RESPONSIBILITIES OF CONSULTANT**

2.1 Control and Payment of Subordinates.

**CITY** retains **CONSULTANT** as an independent contractor and not an employee of **CITY**. All personnel to be utilized by **CONSULTANT** in the performance of this Agreement shall at all times be under **CONSULTANT'S** exclusive direction and control. **CONSULTANT** shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of services under this Agreement and as required by law. **CONSULTANT** shall be responsible for all reports and obligations with respect to such personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

2.2 Conformance to Applicable Requirements.

All services provided by **CONSULTANT** shall be subject to the approval of the **CITY**.

2.3 Standard of Care; Licenses.

All professional services to be provided by **CONSULTANT** pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar circumstances in accordance with sound professional practices. **CONSULTANT** represents and warrants to **CITY** that it has all licenses, permits, qualifications and approvals that are legally required to practice its profession and to provide the services hereunder. **CONSULTANT** further represents and warrants that it shall keep in effect all such licenses, permit, and other approvals during the term of this Agreement.

2.4 Project Representatives.

The City Manager or his designee shall be the Project Representative of **CITY** for purposes of this Agreement and may issue all consents, approvals, directives and agreement on behalf of **CITY**, called for by this Agreement except as otherwise expressly provided in this Agreement. Project representative shall coordinate all phases of this project and shall be available to **CITY** at all reasonable times.

### 2.5 Accounting Records.

**CONSULTANT** shall maintain complete and accurate records with respect to costs and expenses incurred in the performance of this Agreement. All such records shall be clearly identifiable as being associated with this Agreement. **CONSULTANT** shall allow an authorized representative of **CITY**, during normal business hours, to examine, audit, and make transcripts of copies of such records. **CONSULTANT** shall allow **CITY** to inspect all work, data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment (or completion of work) under this Agreement.

## ARTICLE III COMPENSATION

### 3.1 Compensation.

Except as provided in this section, **CONSULTANT** shall receive compensation for all Services rendered under this Agreement at the rates set forth in the Schedule of Billing Rates attached hereto as Exhibit "B", and incorporated herein by reference. **CONSULTANT** shall not receive compensation for any services provided outside the Scope of Work unless such additional services (hereinafter "Extra Work") are approved in writing by **CITY** or its appointed representative prior to **CONSULTANT** performing the "Extra Work".

### 3.2 Payment of Compensation.

**CONSULTANT** shall provide **CITY** an itemized monthly statement which indicates work completed, hours of service rendered and units of supplies provided to the Project by **CONSULTANT**, from July 1, 2023, or the start of the subsequent billing periods, as appropriate, through the date of the statement. **CITY** shall make any payment due within forty-five (45) days after approval of the invoice by **CITY**.

### 3.3 Extra Work.

At any time during the term of this Agreement, **CITY** may request that **CONSULTANT** perform Extra Work. As used herein, "Extra Work" means any

work which is determined by **CITY** to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. **CONSULTANT** shall not perform Extra Work until receiving prior written authorization from **CITY'S** Project Representative. It is specifically understood and agreed that oral requests and/or approvals of "Extra Work" shall be barred and are unenforceable.

#### 3.4 Amendment of Scope of Work.

**CITY** shall have the right to amend the Scope of Work within the Agreement by written notification to the **CONSULTANT**. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to the Agreement. Failure of **CONSULTANT** to secure **CITY'S** written authorization for "Extra Work" or changed work shall constitute a waiver of any and all right to adjustment in the contract price or time due, whether by way of compensation, restitution, quantum meruit, etc. for work done without the appropriate **CITY** authorization.

#### 3.5 Reimbursement for Expenses

**CONSULTANT** shall not be reimbursed for any expenses unless prior written authorization is obtained from **CITY**.

### ARTICLE IV INSURANCE

#### 4.1 Insurance Requirements.

The **CITY** reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. If the existing policies do not meet the Insurance Requirements set forth herein, **CONSULTANT** agrees to amend, supplement or endorse the policies to do so.

Without limiting the indemnity provisions of the Contract, the **CONSULTANT** shall procure and maintain in full force and effect during the term of the Contract, the following policies of insurance.

#### 4.2 Minimum Scope of Insurance.

Coverage shall be at least as broad as:

- (a) **Commercial General Liability (CGL)** which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, including products and

completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

- (b) **Automobile Liability Insurance** with coverage at least as broad as Insurance Services Office Form CA 0001 covering “Any Auto” (Symbol 1) with limit no less than \$1,000,000 each accident for bodily injury and property damage.
  
- (c) **Workers’ Compensation** as required by the State of California with statutory limits, and Employer’s Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury or disease.
  
- (d) **Errors & Omissions/Professional Liability Insurance/Cyber Liability Insurance** in an amount not less than \$1,000,000 per claim and annual aggregate, covering (1) all acts, errors, omissions, negligence, infringement of intellectual property; (2) network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or negligence in the handling of confidential information, privacy perils, including coverage for related regulatory defense and penalties; (3) data breach expenses payable whether incurred by City or Consultant, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for City or on behalf of City hereunder.

The policy shall contain an affirmative coverage grant for continent bodily injury and property damage emanating from the failure of the technology services or an error or omission in the content/information provided.

If a sub-limit applies to any elements of coverage, the certificate of insurance evidencing the coverage above must specify the coverage section and the amount of the sub-limit.

If the **CONSULTANT** maintains broader coverage and/or higher limits than the minimums shown above, the **CITY** requires and shall be entitled to the broader coverage and/or higher limits maintained by the **CONSULTANT**.

#### 4.3 Endorsements.

Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the **CITY** for approval. The insurance policies shall contain or be endorsed to contain, the following provisions:

(a) Commercial General Liability

- (1) **Additional Insured:** The City, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the work or operations performed by or on behalf of the Consultant including materials, parts or equipment furnished in connection with such work or operations.

Additional Insured Endorsements shall not:

1. Exclude "Contractual Liability"
2. Restrict coverage to the "Sole" liability of Consultant
3. Exclude "Third-Party-Over Actions"
4. Contain any other exclusion contrary to the Contract

Additional Insured Endorsements shall be at least as broad as ISO Form(s) CG 20 10 11 85; or CG 20 10 and CG 2037.

- (2) **Primary Insurance:** This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance. Coverage shall be at least as broad as ISO CG 20 01 04 13.

(b) Auto Liability

- (1) **Additional Insured:** The City, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims

arising out of the work or operations performed by or on behalf of the Consultant

- (2) **Primary Insurance:** This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance.

(c) Workers' Compensation

- (1) **Waiver of Subrogation:** A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

#### 4.4 Insurance Obligations of Consultant.

The Insurance obligations under this agreement shall be: (1) all the Insurance coverage and/or limits carried by or available to the **CONSULTANT**; or (2) the minimum Insurance coverage requirements and/or limits shown in this agreement; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits, which are applicable to a given loss, shall be available to the **CITY**. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the obligations of the **CONSULTANT** under this agreement.

#### 4.5 Notice of Cancellation.

Required insurance policies shall not be cancelled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the **CITY** except ten (10) days shall be allowed for non-payment of premium.

#### 4.6 Waiver of Subrogation.

Required insurance coverages shall not prohibit **CONSULTANT** from waiving the right of subrogation prior to a loss. **CONSULTANT** shall waive all rights of subrogation against the indemnified parties and Policies shall contain or be endorsed to contain such a provision. This provision applies regardless of whether the **CITY** has received a waiver of subrogation endorsement from the insurer.

#### 4.7 Evidence of Insurance.

All policies, endorsements, certificates, and/or binders shall be subject to approval by the **CITY** as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by the **CITY**. The **CITY** reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the **CITY**. If such coverage is cancelled or reduced, **CONSULTANT** shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the **CITY** evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

#### 4.8 Deductible or Self-Insured Retention.

Any deductible or self-insured retention must be approved in writing by the **CITY** and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention. The **CITY** may require the **CONSULTANT** to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration and defense expenses within the retention.

#### 4.9 Contractual Liability.

The coverage provided shall apply to the obligations assumed by the **CONSULTANT** under the indemnity provisions of this contract.

#### 4.10 Failure to Maintain Coverage.

**CONSULTANT** agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the **CITY**. The **CITY** shall have the right to withhold any payment due until **CONSULTANT** has fully complied with the insurance provisions of this Contract.

In the event that the **CONSULTANT'S** operations are suspended for failure to maintain required insurance coverage, the **CONSULTANT** shall not be entitled to an extension of time for completion of the Work because of production lost during suspension.

#### 4.11 Acceptability of Insurers.

Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the **CITY**.

#### 4.12 Claims Made Policies.

If coverage is written on a claims-made basis, the retroactive date on such insurance and all subsequent insurance shall coincide or precede the effective date of the initial **CONSULTANT'S** Contract with the **CITY** and continuous coverage shall be maintained or an extended reporting period shall be exercised for a period of at least five (5) years from termination or expiration of this Contract.

#### 4.13 Insurance for Subcontractors.

**CONSULTANT** shall be responsible for causing Subcontractors to purchase the same types and limits of insurance in compliance with the terms of this Contract/Agreement, including adding the **CITY** as an Additional Insured, providing Primary and Non-Contributory coverage and Waiver of Subrogation to the Subcontractor's policies. The Commercial General Liability Additional Insured Endorsement shall be on a form at least as broad as CG 20 38 04 13.

#### 4.14 Additional Insurance.

Further, **CONSULTANT** shall obtain any additional kinds and amounts of insurance which, in its own judgment, may be necessary for the proper protection of any of its officers', employees', or authorized sub-consultants' own actions during the performance of this Agreement.

## **ARTICLE V** **TERMINATION AND INDEMNIFICATION**

#### 5.1 Notice of Termination.

**CITY** may terminate the whole or any part of this Agreement at any time and without cause by giving seven (7) days written notice to **CONSULTANT** of such termination, and specifying the effective date thereof. **CONSULTANT** shall discontinue all services affected by such termination within seven (7) days of receipt of such notice, unless otherwise instructed by **CITY** in writing. **CONSULTANT** shall not terminate this Agreement except for cause.

## 5.2 Termination Without Cause.

If **CITY** terminates this Agreement without cause, **CONSULTANT** shall be paid for services performed through the date of termination, upon receipt of written documentation of said services by **CITY**. Such payment shall include a pro-rated amount of profit, if applicable, but no amount shall be paid for anticipated profit on unperformed services.

## 5.3 Termination for Cause.

Should **CONSULTANT** default in the performance of any covenant, condition, or agreement contained in this Agreement and the default is not cured within thirty (30) days after written notice of the default is served on **CONSULTANT** by **CITY** then **CITY**, in addition to any other remedies at law or equity, may terminate this Agreement. **CONSULTANT** shall be compensated for services which have been completed and accepted by **CITY**. **CONSULTANT** shall be liable to **CITY** for any reasonable additional costs incurred to correct or cure unsatisfactory work performed by **CONSULTANT** which, at **CITY'S** discretion, must be revised, in part or in whole, to complete the Project.

## 5.4 Procurement of Similar Services.

In the event this Agreement is terminated as provided by this Article, with or without cause, in whole or in part, **CITY** may procure, any and all services as may be necessary to complete the Project.

## 5.5 Work Product.

In the event of termination of this Agreement, all finished or unfinished design, development and construction documents, data studies, drawings, maps and reports prepared by **CONSULTANT** shall be delivered to the **CITY** within seven (7) days of **CONSULTANT'S** receipt of termination notice, and at no additional cost to **CITY**. Any use of uncompleted documents without specific written authorization from **CONSULTANT** shall be at **CITY'S** sole risk and without liability or legal expense to **CONSULTANT**.

## 5.6 Indemnification and Hold Harmless.

**These Indemnification provisions are independent of and shall not in any way be limited by the Insurance Requirements of this Agreement. CITY approval of the Insurance contracts required by this Agreement does not in any way relieve the CONSULTANT from liability under this section.**

Notwithstanding the existence of insurance coverage required of **CONSULTANT** pursuant to this contract, **CONSULTANT** shall save, keep defend, indemnify, hold free and harmless **CITY**, its officers, officials, employees, agents

and volunteers from and against any and all damages to property or injuries to or death of any person or persons, and shall defend, indemnify, save and hold harmless **CITY**, its officers, officials, employees, agents and volunteers from any and all claims, demands, suits, actions or proceedings of any kind or nature, including, but not by way of limitation, all civil claims, workers' compensation claims, and all other claims resulting from or arising out of the acts, errors or omissions of **CONSULTANT**, its employees and/or authorized sub-consultants, whether intentional or negligent, in the performance of this Agreement.

## **ARTICLE VI** **GENERAL PROVISIONS**

### 6.1 Notices.

All notices and written communications sent by one party to the other shall be personally delivered or sent by registered or certified U.S. Mail postage prepaid, return receipt requested to the following addresses indicated below:

IF TO CITY:           CITY MANAGER  
                              CITY OF LA HABRA  
                              P.O. Box 337  
                              La Habra, Ca. 90633

TO CONSULTANT: Tom VanDorpe  
                              The Code Group, Inc  
                              1845 W. Orangewood Ave., Suite 210  
                              Orange, CA. 92868

The effective date of any notice or written communications sent by one party to the other shall be the date received if by personal service, or 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark.

### 6.2 Entire Agreement.

This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreement whether verbal or written, concerning the same subject matter. This Agreement may be modified only by a writing signed by both parties.

### 6.3 Successors and Assigns.

This Agreement shall be binding on the successors and assigns of the parties. This Agreement may not be sold, transferred or assigned by either party,

or by operation of law, to any other person or persons or business entity, without the other party's written permission. Any such sale, transfer or assignment, or attempted sale, transfer or assignment without written permission, may be deemed by the other party to constitute a voluntary termination of this Agreement and this Agreement shall thereafter be deemed terminated and void.

#### 6.4 Subcontracts.

**CONSULTANT** shall not subcontract any portion of the work required by this Agreement without prior written approval of **CITY**. All approved subcontracts, if any, shall be accomplished by a written instrument. Such instrument shall contain an expressed assumption by the subcontractor of all conditions and terms and covenants contained in this Agreement.

#### 6.5 Equal Opportunity Employment.

**CONSULTANT** represents that it is an equal opportunity employer and shall not discriminate either directly or indirectly against an employee or applicant for employment with **CONSULTANT** on the basis of race, color, religion, national origin, ancestry, sexual preference, sex or age. **CONSULTANT** shall also take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, national origin, ancestry, sexual preference, sex, age, or other prohibited grounds.

#### 6.6 Attorney's Fees.

If either party commences a legal action against the other party arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover reasonable attorney's fees and costs of suits.

#### 6.7 Governing Law.

This Agreement shall be governed by and construed with the laws of the State of California. Any Action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in the County of Orange.

#### 6.8 Time of Essence.

Time is of the essence for each and every provision of this Agreement.

#### 6.9 Right to Employ Other Consultants.

**CITY** reserves the right to employ other consultants in connection with this Project.

#### 6.10 Covenant Against Contingent Fees.

**CONSULTANT** warrants that he/she/it has not employed or retained any company or person, other than a bona fide employee working with **CONSULTANT**, to solicit or secure this Agreement, and that he/she/it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, **CITY** shall have the right to annul this Agreement without liability or, in its discretion to deduct from **CONSULTANT'S** compensation provided under this Agreement, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

#### 6.11 Conflict of Interest.

**CONSULTANT** covenants that he/she/it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its Services hereunder. **CONSULTANT** further covenants that in the performance of this Agreement, no person having any such conflict of interest shall be employed by **CONSULTANT**.

#### 6.12 Statement of Economic Interest.

If **CITY** determines **CONSULTANT** comes within the definition of **CONSULTANT** under the Political Reform Act (Government Code §87100 et. seq.), **CONSULTANT** shall complete and file and shall require any other person doing work under this Agreement, to complete and file a "Statement of Economic Interest" with the City Clerk of the **CITY** disclosing **CONSULTANT** and/or such other person's financial interests.

#### 6.13 No Waiver of Breach; Time.

No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought referring expressly to this Paragraph. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

#### 6.14 Third Party Beneficiaries.

Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

#### 6.15 Taxes.

**CONSULTANT** agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. **CONSULTANT** agrees to indemnify and hold **CITY** harmless from any liability which it may incur to the United States or to the State of California as a consequence of **CONSULTANT'S** failure to pay, when due, all such taxes and obligations.

#### 6.16 Compliance With Law.

**CONSULTANT** shall comply with applicable federal, state and local laws, rules and regulations affecting the **CONSULTANT** and his/her/its work hereunder.

#### 6.17 Title to Documents.

Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by **CONSULTANT** under the Agreement shall be vested in **CITY**, none of which shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of **CITY**. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to **CITY** without restriction or limitations on their use. **CONSULTANT** may retain copies of the above described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written permission of **CITY** during the term of this Agreement or until ninety (90) days after receipt of final payment from **CITY**.

#### 6.18 Validity.

The validity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provisions of this Agreement.

#### 6.19 Headings.

Section and subsection headings are not to be considered part of this Agreement, are included solely for convenience, and are not intended to modify or explain or to be a full or accurate description of the content thereof.

#### 6.20 Counterparts.

This Agreement may be executed in one or more counterparts by the parties hereto. All counterparts shall be construed together and shall constitute one agreement.

#### 6.21 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by doing so, the Parties hereto are formally bound to the provision of this Agreement.

#### 6.22 Confidentiality.

All findings, reports, information and exhibits prepared or assembled by **CONSULTANT** in connection with the performance of its professional services pursuant to this Agreement are confidential and **CONSULTANT** agrees that they shall not be made available to any individual or organization without the prior consent of **CITY**. All findings, reports, information and exhibits shall become the property of **CITY**.

#### 6.23 Responsibility for Errors.

**CONSULTANT** shall be responsible for its own work and results under this Agreement, and shall not be responsible for any work by **CITY** performed prior to the date of this Agreement or for any other acts or omissions directly attributable to **CITY**. **CONSULTANT**, when requested, shall furnish clarification and/or explanation as may be required by **CITY** regarding any services rendered under this Agreement at no additional cost to **CITY**. In the event that an error or omission attributable to **CONSULTANT** occurs, then **CONSULTANT** shall, at no cost to **CITY**, provide all necessary design drawings, estimates and other **CONSULTANT** professional services, as authorized by this Agreement necessary to rectify and correct the matter to the sole satisfaction of **CITY** and to participate in any meeting required with regard to the correction.

#### 6.24 Independent Contractor.

The parties hereto acknowledge and agree that the relationship between **CITY** and **CONSULTANT** is one of principal and independent contractor and no other. Nothing contained in this Agreement shall create or be construed as creating a partnership, a joint venture, employment relations, or any other relationship except as set forth between the parties. The parties specifically acknowledge and agree that **CONSULTANT** is not a partner with **CITY**, whether general or limited, and no activities of **CITY** or **CONSULTANT** or statements made by **CITY** or **CONSULTANT** shall be interpreted by any of the parties hereto as establishing any type of business relationship other than an independent contractor relationship.

NOTE: In the event the **CONSULTANT'S** personal services are required, the following shall apply:

This Agreement is made on the express condition and understanding that Tom VanDorpe's personal services are a substantial inducement to **CITY** for entering into this Agreement. If for any reason Tom VanDorpe should no longer be the responsible manager for **CONSULTANT**, this Agreement shall be subject to immediate termination on written notice from **CITY**.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the date and year first above written.

**CITY OF LA HABRA:**

\_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
CITY ATTORNEY

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**COUNTER SIGNED:**



Gina Birkett  
CFO

**EXHIBIT "A"**  
**SCOPE OF WORK AND SCHEDULE OF PERFORMANCE**

See Attached

## BACKGROUND

La Habra is located in the northwest corner of Orange County on the Orange-Los Angeles County border line. It is immediately adjacent to the Los Angeles County cities of Whittier and La Mirada to the west; La Habra Heights to the north; the Orange County cities of Brea to the east, and Fullerton to the south.

The Community Development Department serves the City and its community by preparing, administering, and enforcing land use plans and development regulations that protect public safety, preserve environmental resources, address housing needs, and create a healthy and prosperous community, in a manner that fosters community engagement and provides an exceptional level of service. The Building and Safety Division of the City of La Habra Community Development Department protects the health and safety of City residents, their property, and the public by ensuring that permitted construction within La Habra meets current building code standards.

## SCOPE OF SERVICES

The City of La Habra is seeking to establish a list of qualified Consultants to provide independent plan check and building inspection services on an as-needed basis for the Building and Safety Division of the Community and Economic Development Department. Under the direction and supervision of the Chief Building Official, the selected Consultants will perform the following plan check and inspection services:

1. Performance of plan checking services in a diligent and professional manner in accordance with standard practice of such services, at the firm's own office or at project sites, in a prompt and expeditious manner within the City's specified timeframes.
2. Provide to the City an itemized list including all plan check comments for each submittal and re-submittal of plans and supporting documentation.
3. Perform onsite building inspection services covering structural, plumbing, mechanical, and electrical systems related to the construction or alteration of residential and commercial structures.

## CONTRACTOR QUALIFICATIONS/CONTRACT REQUIREMENTS

### Contractor Qualifications

Consultant must be or have on staff California Licensed Structural Engineer(s), a State of California Certified Access specialist, and an ICC certified building inspector(s) and plans examiner(s).

### Contract Requirements

Consultants should be aware that a contract for services resulting from their proposal will include all provisions contained in Attachment A. The consultant must indicate in its proposal whether it will agree to these terms, or if not, the consultant must provide an explanation and proposed alternative language.

## REQUIRED PROPOSAL DOCUMENTATION

The proposal shall include:

1. Cover letter and Executive Summary including name and address of organization, contact person, highlights of proposal.
2. Qualifications and Personnel: Professional background and qualifications, including firm's resources, experience and demonstrated ability to perform the scope of work. This section must include an



## 2. Qualifications and Personnel

**Understanding the City's Needs** VCA Code understands the expectations outlined in the RFP and is **ready to provide plan review and building inspection services**. We will work closely with the City, residents, and developers to achieve project objectives and support the Building & Safety Division. VCA employs a wide range of professionals to fit the City's needs, including but not limited to:

- Licensed Structural Engineer
- Licensed Professional Engineer
- Licensed Architect
- ICC Plans Examiner
- ICC Permit Technician
- ICC Building Inspector
- ICC Combination Inspector
- ICC Building Official
- CASp
- Grading Inspector
- Code Enforcement
- Fire Protection Engineer/Fire Marshal
- AICP Planner
- LEED AP

**Achieving the Scope of Work** VCA Code has read the Scope of Work and understands that the City of La Habra is seeking a qualified firm to provide independent plan check and building inspection services on an as-needed basis. VCA Code possesses the bandwidth, expertise, and experience to meet and/or exceed expectations for the following services:

1. Performance of plan checking services in a diligent and professional manner in accordance with standard practice of such services, at the firm's own office or at project sites, in a prompt and expeditious manner within the City's specified timeframes.
2. Provide to the City an itemized list including all plan check comments for each submittal and re-submittal of plans and supporting documentation.
3. Perform onsite building inspection services covering structural, plumbing, mechanical, and electrical systems related to the construction or alteration of residential and commercial structures.

With VCA's unwavering commitment to excellence, we are confident in our ability to deliver unparalleled plan review services, as demonstrated by:

- Not only does our plan check team undergo regular trainings to keep up-to-date on the most recent code changes, but they also maintain approved, client-specific correction lists to preserve consistency. Our review capabilities include but are not limited to:

- |                 |                    |                          |
|-----------------|--------------------|--------------------------|
| ✓ Building      | ✓ Energy           | ✓ Accessibility/ADA/CASp |
| ✓ Structural    | ✓ CALGreen         | ✓ Geotechnical           |
| ✓ Architectural | ✓ Solar            | ✓ Stormwater             |
| ✓ Mechanical    | ✓ Fire/Life Safety | ✓ Flood Zone             |
| ✓ Electrical    | ✓ Grading/Drainage | ✓ OSHPD-3                |
| ✓ Plumbing      | ✓ Seismic          | ✓ Cannabis               |

- Our team of full-time **plan check coordinators** is dedicated to streamlining the plan review process by ensuring a seamless transition between consultants, proper routing of plans, and addressing any questions raised by applicants.



- ☑ VCA’s ability to manage multiple deadlines and achieve desired turnaround times is made possible by our **proprietary plan tracking system**. Openly displayed on a screen, similar to a flight status board, are the due dates for each plan. This transparency ensures accountability of assigned projects.

Today Is						Total Plans in House :		
Agency	Emp	Sub #	Plan ID	PC Number	Job Address	Rec'vd	Due	Days Till Due
MON	NS	3	34769	2021-343	361 Norumbega	11/8	11/15	6
LB	GH	1	34839....	BRMD263...	3360 E 68th St	11/8	11/15	6
LB	GH	1	34840....	BRMD263...	3360 E 68th St	11/8	11/15	6
COR	SD	1	35403	B21-04375	810 Ford Street	10/28	11/15	6
COR	SD	1	35404	B21-04362	810 Ford Street	10/28	11/15	6
MB	NS	1	35229	BLDR-21-...	1530 9th St	10/1	11/15	6
WHO	JK	2	35294	E21-0369	9041 Nemo St	11/8	11/16	7
WHO	JK	2	35295	M21-0270	9041 Nemo St	11/8	11/16	7

Our standard review times for optimal quality are listed below; however, **we will conform to the City's prescribed turnaround times.**

Type of Plan Review	Working Days
<b>i. Initial Check</b>	10 days
<b>ii. Recheck</b>	5-7 days (depends on scope)
<b>iii. Plan Change</b>	10 days
<b>iv. Single Family Dwellings</b>	10 days
<b>v. Apartments</b>	10-20 days (depends on scope)
<b>vi. Tenant Improvements</b>	10 days
<b>vii. Commercial/Industrial</b>	10-20 days (depends on scope)

Furthermore, VCA employs experienced inspectors who have worked for municipalities and are familiar with the types of procedures and situations common in the public sector.

- ☑ VCA **inspectors are ICC certified** with most possessing multiple certifications for residential, commercial, industrial, mechanical, electrical, and plumbing.
- ☑ Our inspectors also bring **years of municipal experience** to inspect additions, remodels, pools, retaining walls, TI’s, retail, restaurants, strip malls, shopping centers, theatres, and more for code adherence.
- ☑ VCA’s Staffing Division will **promptly assign inspectors** as needed, especially during emergencies.

Unlike most consultants, VCA employs **professional recruiters** to hire the best staff for your needs. We understand that projects and staffing levels can vary over time, so our experts work extensively with cities to provide comprehensive staffing solutions.

**Success with Numerous Municipalities** We currently serve 35+ jurisdictions, and VCA's exceptional track record in delivering outstanding services is evidenced by the numerous cities that have entrusted us with their projects. Summarized below are public agencies we perform similar scopes of work for, overseen and managed by **Bob Heinrich** – President, **Rick Bergin** – Director of Staffing, and **Samir Ghosn** – Director of Plan Check.

**Qualifications and Personnel**

**EXHIBIT "B"**  
**COMPENSATION RATES AND CHARGES**

See attached



## 4. Proposed Billing Structure

VCA Code proposes the following competitive fee structure for outsourced plan review and inspection services. By partnering with VCA, the City will benefit from:

- Consistent quality because VCA works as an extension of your city’s staff
- Expertise in electronic plan check and various permitting software
- No charge for pick-up/drop-off of plans
- Proposed rate structure allows flexibility depending on City’s needs
- Reliability in working with an established consultant led by former municipal officials/staff

### Outsourced Plan Check

VCA Code will provide on-call plan checking services at the fees listed below.

Service	VCA Code Collected Fee*
<b>Full Plan Check</b>	68%
<b>Non-Structural, Structural, MEP</b>	50%
<b>Expedited Plan Check</b>	1.5x
<b>Revisions, Deferred Submittals, 4<sup>th</sup> and Subsequent Reviews, Other Projects as Agreed Upon</b>	<ul style="list-style-type: none"> <li>• ICC Plans Examiner: \$115/Hr to \$125/Hr</li> <li>• Plan Check Engineer: \$125/Hr to \$135/Hr</li> <li>• Structural Eng./Specialist: \$140/Hr to \$150/Hr</li> </ul>

\*Percentages include three plan reviews and are calculated from the City’s collected plan check fees. Compensation is determined by experience and agreement between the City and VCA.

### Inspection Services

VCA Code will provide inspection services at the hourly rates below. Compensation will be based on experience and agreement between the City and VCA.

Service/Function (DOE)	Hourly Rate (OT=1.5x)
<b>Building Inspector</b>	\$80.00 to \$90.00
<b>Sr. Building Inspector / Combination Inspector</b>	\$85.00 to \$100.00

**Notes:**

- VCA charges the current IRS Mileage Rates for traveling to and from job sites.
- Rates may be adjusted annually based on CPI.
- VCA may charge a 2-hour minimum for work.



### Additional Services

<b>Service/Function (DOE)</b>	<b>Hourly Rate (OT=1.5x)</b>
<b>Electrical Inspector</b>	\$90.00 to \$105.00
<b>Grading Inspector</b>	\$95.00 to \$115.00
<b>Permit Technician</b>	\$65.00 to \$75.00
<b>Senior Permit Technician</b>	\$70.00 to \$80.00
<b>Supervisor for Permit Tech / Counter Services</b>	\$95.00 to \$115.00
<b>Administrative Personnel</b>	\$55.00 to \$65.00
<b>Code Enforcement Officer</b>	\$75.00 to \$85.00
<b>Code Enforcement Supervisor</b>	\$95.00 to \$105.00
<b>CalGreen Inspector / Manager Services</b>	\$105.00 / \$135.00
<b>City Planner / Planning Manager</b>	\$175.00 to \$195.00
<b>Senior Planner / Principal Planner</b>	\$145.00 to \$165.00
<b>Zoning Administrator</b>	\$125.00 to \$145.00
<b>Associate Planner</b>	\$105.00 to \$135.00
<b>Assistant Planner / Counter Services</b>	\$90.00 to \$105.00
<b>Planning Technician / Assistant</b>	\$70.00 to \$85.00
<b>ICC Plans Examiner at City</b>	\$115.00 to \$125.00
<b>Plan Check Engineer at City</b>	\$130.00 to \$145.00
<b>Building Official</b>	\$140.00 to \$175.00
<b>Client Consultation (CBO/Sr. Management)</b>	\$145.00 to \$195.00

**Notes:**

- VCA charges the current IRS Mileage Rates for traveling to and from job sites.
- Rates may be adjusted annually based on CPI.
- VCA may charge a 2-hour minimum for work.



**ADDITIONAL REMARKS SCHEDULE**

AGENCY <b>IOA Insurance Services</b>	License # 0E67768	NAMED INSURED VCA Consultants, Inc. (See Desc. of Operations for Full Named Insured) 1845 W. Orangewood Ave, Suite 200 Orange, CA 92868
POLICY NUMBER <b>SEE PAGE 1</b>		
CARRIER <b>SEE PAGE 1</b>	NAIC CODE <b>SEE P 1</b>	EFFECTIVE DATE: <b>SEE PAGE 1</b>

**ADDITIONAL REMARKS**

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

**Description of Operations/Locations/Vehicles:**

Liability per the attached endorsements as required by written contract. Insurance is Primary and Non-Contributory. Waiver of Subrogation applies to General Liability, Auto Liability, and Workers' Compensation.

30 Days Notice of Cancellation with 10 Days Notice for Non-Payment of Premium in accordance with the policy provisions.

**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

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

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

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies, or in connection with premises owned by or rented to you.

The person or organization does not qualify as an additional insured:

- c. With respect to the independent acts or omissions of such person or organization; or
- d. For "bodily injury", "property damage" or "personal injury" for which such person or organization has assumed liability in a contract or agreement.

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

- e. 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.
- f. This insurance does not apply to the rendering of or failure to render any "professional services".
- g. In the event that the Limits of Insurance of the Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement does not increase the limits of insurance described in Section III – Limits Of Insurance.

- h. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

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

The insurance provided to the additional insured is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to other insurance available to the additional insured which covers that person or organizations as a named insured for such loss, 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 signed that "written contract requiring insurance". But this insurance provided to the additional insured still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any other insurance.

## COMMERCIAL GENERAL LIABILITY

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

We waive any right 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, done under a "written contract requiring insurance" with that person or organization. We waive this right only where you have agreed to do so as part of the "written contract requiring insurance" with such person or organization signed by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

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

"Written contract requiring insurance" means that part of any written contract 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 signed that written contract;
- b. While that part of the written contract is in effect; and
- c. Before the end of the policy period.



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

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

**Policy Number:** 72WEGAM3JXV

**Endorsement Number:**

**Named Insured and Address:** VCA Consultants, Inc.  
1845 W Orangewood Ave., Suite 200  
Orange, CA 92868

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

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2 % of the California workers' compensation premium otherwise due on such remuneration.

**SCHEDULE**

**Person or Organization**

**Job Description**

Any person or organization from whom you are required by written contract or agreement to obtain this waiver of rights from us

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

## **AUTO COVERAGE PLUS ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **BUSINESS AUTO COVERAGE FORM**

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

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li><b>A. BLANKET ADDITIONAL INSURED</b></li><li><b>B. EMPLOYEE HIRED AUTO</b></li><li><b>C. EMPLOYEES AS INSURED</b></li><li><b>D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS</b></li><li><b>E. TRAILERS – INCREASED LOAD CAPACITY</b></li><li><b>F. HIRED AUTO PHYSICAL DAMAGE</b></li><li><b>G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT</b></li></ul> | <ul style="list-style-type: none"><li><b>H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT</b></li><li><b>I. WAIVER OF DEDUCTIBLE – GLASS</b></li><li><b>J. PERSONAL PROPERTY</b></li><li><b>K. AIRBAGS</b></li><li><b>L. AUTO LOAN LEASE GAP</b></li><li><b>M. BLANKET WAIVER OF SUBROGATION</b></li></ul> |
|---|--|

#### **A. BLANKET ADDITIONAL INSURED**

The following is added to Paragraph **A.1.**, **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

#### **B. EMPLOYEE HIRED AUTO**

1. The following is added to Paragraph **A.1.**, **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating a covered "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while

performing duties related to the conduct of your business.

2. The following replaces Paragraph **b.** in **B.5.**, **Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

**b.** For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1)** Any covered "auto" you lease, hire, rent or borrow; and
- (2)** Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

#### **C. EMPLOYEES AS INSURED**

The following is added to Paragraph **A.1.**, **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

## COMMERCIAL AUTO

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

### D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph **A.2.a.(2)** of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph **A.2.a.(4)** of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

### E. TRAILERS – INCREASED LOAD CAPACITY

The following replaces Paragraph **C.1.** of **SECTION I – COVERED AUTOS**:

1. "Trailers" with a load capacity of 3,000 pounds or less designed primarily for travel on public roads.

### F. HIRED AUTO PHYSICAL DAMAGE

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

#### Hired Auto Physical Damage Coverage

If hired "autos" are covered "autos" for Covered Autos Liability Coverage but not covered "autos" for Physical Damage Coverage, and this policy also provides Physical Damage Coverage for an owned "auto", then the Physical Damage Coverage is extended to "autos" that you hire, rent or borrow subject to the following:

(1) The most we will pay for "loss" to any one "auto" that you hire, rent or borrow is the lesser of:

(a) \$50,000;

(b) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

(c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

(2) An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

(3) If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.

(4) A deductible equal to the highest Physical Damage deductible applicable to any owned covered "auto".

(5) This Coverage Extension does not apply to:

(a) Any "auto" that is hired, rented or borrowed with a driver; or

(b) Any "auto" that is hired, rented or borrowed from your "employee".

### G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph **A.4.a.**, **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

### H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT

Paragraph **C.1.b.** of **SECTION III – PHYSICAL DAMAGE COVERAGE** is deleted.

### I. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph **D.**, **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

### J. PERSONAL PROPERTY

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

#### Personal Property Coverage

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

(1) Owned by an "insured"; and

(2) In or on your covered "auto".

This coverage only applies in the event of a total theft of your covered "auto".

No deductibles apply to Personal Property coverage.

**K. AIRBAGS**

The following is added to Paragraph **B.3., Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion **3.a.** does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs **A.1.b.** and **A.1.c.**, but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

**L. AUTO LOAN LEASE GAP**

The following is added to Paragraph **A.4., Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

**Auto Loan Lease Gap Coverage for Private Passenger Type Vehicles**

In the event of a total "loss" to a covered "auto" of the private passenger type shown in the Schedule or Declarations for which Physical Damage Coverage is provided, we will pay any unpaid amount due on the lease or loan for such covered "auto" less the following:

- (1) The amount paid under the Physical Damage Coverage Section of the policy for that "auto"; and

(2) Any:

- (a) Overdue lease or loan payments at the time of the "loss";
- (b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
- (c) Security deposits not returned by the lessor;
- (d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- (e) Carry-over balances from previous loans or leases.

**M. BLANKET WAIVER OF SUBROGATION**

The following replaces Paragraph **A.5., Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

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

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.