

# WHATCOM COUNTY COUNCIL AGENDA BILL

NO. \_\_\_\_\_ 2016-239

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator:	C. Thomsen	7/14/2016	<div style="text-align: center;"> <b>RECEIVED</b>   <b>JUL 19 2016</b>   <b>WHATCOM COUNTY COUNCIL</b> </div>	7/26/2016	Finance/Council
Division Head:					
Dept. Head:	M. McFarlane	7/14/2016			
Prosecutor:	sg	7/15/16			
Purchasing/Budget:	MC	7/18/16			
Executive:		7.18.16			
<b>TITLE OF DOCUMENT:</b>  Plantation Indoor Range HVAC Replacement Design and Construction Services Contract					
<b>ATTACHMENTS:</b> 1. Plantation Indoor Range HVAC Replacement Design and Construction Services Contract					
SEPA review required? ( ) Yes ( X ) NO SEPA review completed? ( ) Yes ( X ) NO			Should Clerk schedule a hearing ? ( ) Yes ( X ) NO Requested Date:		
<b>SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)</b>  <i>Parks requests approval of the attached contract with SAZON Group for design and construction services for Plantation Indoor Range HVAC Replacement.</i>					
<b>COMMITTEE ACTION:</b>			<b>COUNCIL ACTION:</b>		
<b>Related County Contract #:</b>		<b>Related File Numbers:</b>		<b>Ordinance or Resolution Number:</b>	
<b>Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: <a href="http://www.co.whatcom.wa.us/council">www.co.whatcom.wa.us/council</a>.</b>					




RECEIVED

JUL 18 2016

JACK LOUWS  
COUNTY EXECUTIVE

MEMORANDUM

**TO:** Jack Louws, County Executive

**FROM:** Michael McFarlane 

**RE:** Design and Construction Services for Plantation Indoor Range HVAC Replacement

**DATE:** July 14, 2016

---

Enclosed are two (2) originals of Design and Construction Services for Plantation Indoor Range HVAC Replacement for your review and signature.

▪ **Background and Purpose**

Parks requests approval of the attached contract with SAZAN Group for professional design and construction services required for replacement of the Plantation Indoor Range HVAC system.

This contract will complete design, permitting, construction cost estimate, bid documents, and construction services for replacement of the Plantation Indoor Range HVAC system.

▪ **Funding Amount and Source**

This project is funded through a combination of Washington State Recreation and Conservation Office grant (49%) and REET 1 (51%) funds ASR 2015-5355 (\$290,000).

▪ **Differences from Previous Contract**

This is a new contract.

Please contact Christ Thomsen at extension 5865, if you have any questions or concerns regarding the terms of this agreement,

Encl.

**WHATCOM COUNTY CONTRACT  
INFORMATION SHEET**

Whatcom County Contract No.

201607017

Originating Department:	Parks
Contract or Grant Administrator:	Christ Thomsen
Contractor's / Agency Name:	SAZAN Group
Is this a New Contract?    If not, is this an Amendment or Renewal to an Existing Contract?    Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval?    Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No, include WCC: <u>N/A</u> (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): <u>N/A</u> CFDA#: <u>N/A</u>	
Is this contract grant funded? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, Whatcom County grant contract number(s): <u>201509027</u>	
Is this contract the result of a RFP or Bid process? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, RFP and Bid number(s): <u>16-27</u> Contract Cost Center: <u>3260615001</u>	
Is this agreement excluded from E-Verify?    No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input checked="" type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>64,993</u> This Amendment Amount: \$ <u>N/A</u> Total Amended Amount: \$ <u>N/A</u>	Contracts that require Council Approval (incl. agenda bill & memo) <ul style="list-style-type: none"> <li>Professional Services Agreement above \$20,000.</li> <li>Bid is more than \$50,000.</li> <li>Amendments that have either an increase greater than 10% or provide a \$10,000 increase in amount (whichever is greater)</li> </ul> RENEWALS: Council approval is not required when exercising an option to renew that is provided in the original contract.
Summary of Scope: This professional services contract will complete design, permitting, development of bid documents, and construction services for the replacement of the Plantation Indoor Range HVAC system.	
Term of Contract:    7 months	Expiration Date:    2/29/2017

Contract Routing:	1. Prepared by: <u>C. Thomsen</u> <i>(CP)</i> 2. Attorney signoff: _____ 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: <u>7/14/2016</u> Date: <u>7/15/16</u> Date: <u>7/18/16</u> Date: <u>7-15-16</u> Date: <u>7-18-16</u> Date: _____ Date: _____ Date: _____
-------------------	--	---

**CONTRACT FOR SERVICES AGREEMENT**  
**Plantation Indoor Range HVAC Replacement Design and Construction Services**

SAZAN Group, hereinafter called **Contractor**, and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 9,  
Exhibit A (Scope of Work), p. 10,  
Exhibit B (Compensation), p. 11,  
Exhibit C (Certificate of Insurance).

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 29th day of July 29, 2016, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 29th day of February, 2017.

The general purpose or objective of this Agreement is to: provide Design and Construction Services for the Plantation Indoor Range HVAC replacement, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed \$64,993. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this 15 day of July, 20 16.

CONTRACTOR:

SAZAN Group

Nader Dabestani President 7-15-16  
Date


STATE OF WASHINGTON )  
COUNTY OF King ) ss.

On this 15 day of July, 20 16, before me personally appeared Nader Dabestani to me known to be the President (title) of Sazan Group (Company) and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.


Kim Alger  
NOTARY PUBLIC in and for the State of Washington, residing at  
Lake Stevens My commission expires 2-27-19.



**WHATCOM COUNTY:**  
**Recommended for Approval:**

 7-14-16  
Department Director Date

**Approved as to form:**

 7/15/16  
Prosecuting Attorney Date

**Approved:**  
Accepted for Whatcom County:

By: \_\_\_\_\_  
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF WHATCOM )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington, residing at  
\_\_\_\_\_. My commission expires \_\_\_\_\_.

**CONTRACTOR INFORMATION:**

SAZAN Group  
\_\_\_\_\_  
Nader Dabestani, President  
Address:  
600 Stewart St., STE. 1400  
Seattle, WA, 98101

Mailing Address:  
600 Stewart St, Ste. 1400  
Seattle, WA, 98101

Contact Name: C. Erik Larson

Contact Phone: (206) 267-1700

Contact FAX: (206) 267-1701

Contact Email: elarson@sazan.com  
Contract for Services Agreement  
Plantation Indoor Range HVAC Replacement

## GENERAL CONDITIONS

### ***Series 00-09: Provisions Related to Scope and Nature of Services***

#### 0.1 Scope of Services:

The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

### ***Series 10-19: Provisions Related to Term and Termination***

#### 10.1 Term:

Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

#### 10.2 Extension:

The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

#### 11.1 Termination for Default:

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

#### 11.2 Termination for Reduction in Funding:

In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

#### 11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

### ***Series 20-29: Provisions Related to Consideration and Payments***

#### 20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses

incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

***Series 30-39: Provisions Related to Administration of Agreement***

30.1 Independent Contractor:

The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.



30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced:

Any and all data, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Agreement shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Agreement but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement. All the Contractor's or subcontractor's records relied on, utilized or prepared for purposes of completing this contract must be made available to the County upon request and are subject to the County's legal obligations of the Public Disclosure Records Act. If the Contractor fails to obtain and provide the County with any records requested in a manner and time requested by the County, and such failure results in legal and monetary liability of the County under the Public Disclosure Records Act, the Contractor agrees to indemnify the County for any judgement and/or penalty against the County.

31.2 Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Proof of Insurance:

The Contractor shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:

Property Damage per occurrence - \$500,000.00.

General Liability & Property Damage for bodily injury- \$1,000,000.00.

A Certificate of insurance, that also identifies the County and its departments, elected and appointed officials, employees, agents and volunteers as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

Professional Liability - \$1,000,000 per occurrence:

If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

A Certificate of insurance, that also identifies the County and its departments, elected and appointed officials, employees, agents and volunteers as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

34.2 Industrial Insurance Waiver:

With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 Indemnification by Contractor:

To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which 1) are caused in whole or in part by any act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or Contractor's subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with performance of this Agreement; or 3) are based upon the Contractor's or its subcontractors' use of, presence upon or proximity to the property of the County for the value of the contract or \$1,000,000, whichever is less. This indemnification obligation of the Contractor shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the County. In the event of the concurrent negligence of the Contractor, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of the Contractor shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors, employees and agents. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement, are reflected in the Contractor's compensation, and have been mutually negotiated by the parties.

a. Participation by County – No Waiver.

The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of Contractor's indemnity obligations under this Agreement.

b. Survival of Contractor's Indemnity Obligations.

The Contractor agrees all Contractor's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

c. Indemnity by Subcontractors.

In the event the Contractor enters into subcontracts to the extent allowed under this Agreement, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of

compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Whatcom County, Parks and Recreation  
Christ Thomsen, Operations Manager

3373 Mt. Baker Hwy  
Bellingham, WA 98226  
360-778-5850

37.2 Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Contractor's Status under State Law:

Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

The Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

**Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes**

Contract for Services Agreement  
Plantation Indoor Range HVAC Replacement

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:

Other than claims for injunctive relief brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Agreement or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Agreement shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge, but shall not have the power to award punitive damages. Each party shall pay its own costs of arbitration including attorneys' fees. The arbitrator's fee and any administrative expenses imposed by the arbitrator shall be shared equally by the parties. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the

arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Unless otherwise specified herein, this Agreement shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:

The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Public Records Act.

This Agreement and all public records associated with this Agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

46.1 Entire Agreement:

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT "A"  
(SCOPE OF WORK)

SEE ATTACHED  
SAZAN Fee Proposal  
Dated July 14, 2016

**EXHIBIT "B"**  
**(COMPENSATION)**

The maximum consideration for the initial term of this AGREEMENT or for any renewal term shall not exceed \$64,933.

The Contract Number, set forth, shall be included on all invoices or correspondence in connection therewith.

Invoices shall include a monthly statement of work performed. This statement must give the actual quantity and cost of the completed work as listed in the scope of work or by executed change order.

The CONTRACTOR must submit invoices to the County no later than the 5th day of the month following the month in which the work was completed. The County will process and issue warrants for the completed work by the end of the month in which the statement was submitted. Invoices submitted later than the above date will be paid at the end of the next month or within 60 days.

The CONTRACTOR shall send invoices to:

Whatcom County Parks & Recreation  
Attn: Christ Thomsen  
3373 Mt. Baker Hwy  
Bellingham, WA 98226

CONTRACTOR may invoice the COUNTY progressively not more than once per month. Progressive billings will be for the amount of work completed.

CONTRACTOR may invoice the COUNTY upon completion of the project in its entirety for the full contract amount upon acceptance of the project by the Contract Administrator.



July 14, 2016

Mr. Christ Thomsen  
**Whatcom County Parks & Recreation**  
3373 Mt. Baker Hwy  
Bellingham, WA 98226

Project: Plantation Indoor Range HVAC Replacement  
RCO #14-1127D

Subject: Fee Proposal

Dear Christ:

We appreciate the opportunity to provide design services to Whatcom County Parks and Recreation and are pleased to provide this proposal for the subject project. We propose to provide professional services for this project in accordance with the following.

**Scope of Basic Services**

A. Project scope of work shall be as follows:

1. The project is primarily an HVAC Replacement project, but will include lead survey and abatement design, electrical revisions, as well as minor structural and architectural modifications.
2. There are 2 mechanical systems that will be replaced – one for the indoor gun range, and the other for the support spaces, which include a registration office, lobby/entry, and meeting/observation room, with adjoining restrooms. This project will not condition the existing storage rooms. The new HVAC system shall comply with state, federal, and local code and regulations, including applicable lead containment / collection requirements (L&I, etc.). Heating, Ventilating, and Air Conditioning (HVAC) system design shall be in compliance with minimum requirements of the IBC, IMC, UPC, and State of Washington Energy Code. New HVAC systems for the indoor range will be ground-mounted – site prep and equipment support pad is by others. Civil design effort is excluded, and is anticipated to be by others.
3. Design for a new Direct Digital Control system to control the new HVAC equipment. There is no preference regarding a system supplier, but web-based access with E-mail notification is required. The project will not include modifications to the site communications utilities (internet or phone).
4. As part of the preliminary design effort, Sazan Group will address the potential cost impact (both capital cost and operating/energy cost) to utilize propane as the primary heat source for the building (in lieu of electric power).
5. Sazan Group and our subconsultants will attend a one-day on-site kick-off meeting, which will include detailed site investigation and field verification of existing conditions. In addition to the kick-off meeting and field verification, we will also attend a meeting with Whatcom County Planning & Development Services to

600 Stewart St., Ste 1400  
Seattle, Washington 98101

Tel 206.267 1700  
Fax 206.267 1701

sazan.com



present the project and discuss their expectations for design and design documentation.

6. There will be two design review periods at approximately the 50% and 90% design levels. These review periods will commence with the receipt of design documentation by Whatcom County Parks & Recreation. Following each of the design periods, Săzăn Group will deliver and present the design submittal at a design presentation meeting in the Bellingham area. Following the meeting, Whatcom County Parks & Recreation will have one week to provide written comments related to the design. Following this period, and within 2 business days after receipt of written comments, Săzăn Group will attend a design review meeting to discuss these comments and any additional information which may be needed to proceed with the design.
7. To maintain project schedule, the 90% design submittal will be suitable for building permit application and bidding at the completion of the 90% design review period. If necessary to incorporate comments from Whatcom County Parks & Recreation, we will re-issue the 90% design submittal prior to permit submittal or bidding. Comments that do not impact the building permit application will be addressed in the 100% design submittal. All changes between the 90% and 100% design submittals will be clouded.
8. Following receipt of building permit comments, we will update the 90% design to address comments from the permit authority, responses to contractor questions received during the bid period, or design deficiencies. If addenda are issued during the bid period, these will also be incorporated in the 100% design submittal, which will be suitable for construction.
9. Construction cost estimates are required at the 50% and 90% design submittals. Costs for HVAC upgrades for the indoor range itself should be kept separate from the support spaces.
10. The basic services design effort will include definition of a contractor bid alternate for the replacement of the HVAC equipment serving the support spaces. It is understood that the support space HVAC replacement may be eliminated from the contractor's scope of work if overall funding is not adequate to replace both systems.
11. Architectural scope of work includes roof repairs following removal of the existing roof-mounted mechanical equipment, as well as design for new roof/wall penetrations, flashing, and sealing. No other architectural scope is anticipated other than possibly removal of an existing roof access ladder.
12. Structural engineering will be limited to new penetrations of the building envelope and review of the design for an outdoor equipment pad to support the new HVAC equipment.

13. Refer to attached scope of work for Environmental Services, including regulated materials surveys, abatement design, and requirements for follow-up testing. Note that Environmental Services are not included in the Basic Services fee.
14. Electrical scope of work is limited to the power revisions necessary to support the new mechanical equipment. The proposed scope assumes that a decision will be made to utilize propane or electric power as the HVAC system heat source immediately after the preliminary design review period.
15. Săzăn Group will provide commissioning as required to satisfy energy code requirements. Note that this effort is not included in the Basic Services fee (see below).
16. Săzăn Group will generate all necessary AutoCAD background files for this work from record drawing information provided by Whatcom County Parks & Recreation. At the completion of the design period, we will issue electronic media, including native files, for all design deliverables.
17. The project schedule should allow completion of construction no later than 12-31-2016. The preliminary (tentative) project schedule allows 8-10 weeks for preparation of construction documents, 2 weeks for a pre-bid phase, a 3-4 week bid period, then 2 weeks to the start of construction.
18. Scope of work during Construction Administration and closeout includes the following:
  - a. Submittal Review related to our scope of work.
  - b. RFI Responses and Office Consultation related to our scope of work.
  - c. Final Punchlist Inspection and report.
  - d. Record drawings based on contractor red-lined as-built drawings.
  - e. Site visits during construction (5 site visits maximum).

**Fee**

- A. Basic Services Fee: Time-and-Expense Not-To-Exceed \$42,857. This amount includes \$32,020 in Săzăn Group Labor Effort plus \$10,837 in subconsultant effort and expenses.
- B. Environmental Services: Lead survey, abatement design and closeout services. See attached proposal from PBS Environmental. Effort will be billed on a time-and-materials basis at our cost plus a 7% administrative cost. The total maximum cost for this effort will be \$13,773. This amount is not included in the Basic Services fee.
- C. Commissioning Services: Design phase and construction phase commissioning services will be provided by Săzăn Group in accordance with Washington State Energy

Code requirements. The effort will be billed on a time-and-expense basis, and will not exceed \$8,680. This amount is not included in the Basic Services fee.

- D. Effort will be billed at our standard hourly rates (see Attachment C). Subconsultant effort will be billed on a time and expense basis in accordance with our subconsultant agreements. All subconsultant effort will be invoiced at our cost plus a 7% administrative expense.
- E. Reimbursables: Expenses will be invoiced at our cost plus a 7% administrative expense. We have allowed up to \$1100 for mileage and printing expenses (printing costs will include a 7% mark-up). Mileage will be invoiced at \$0.54/mile.
- F. Basic Services estimated value for each phase of design and construction is as follows:
- |                              |          |
|------------------------------|----------|
| Construction Documents:      | \$33,182 |
| Construction Administration: | \$ 9,675 |
| Total:                       | \$42,857 |

G. Fee Summary

	Design	Construction Administration	TOTAL
Mechanical	\$ 16,000	\$ 5,700	\$ 21,700
Electrical	\$ 8,550	\$ 1,770	\$ 10,320
Subtotal:	\$ 24,550	\$ 7,470	\$ 32,020
Architectural	\$ 4,200	\$ 800	\$ 5,000
Structural	\$ 3,400	\$ 700	\$ 4,100
Subtotal:	\$ 7,600	\$ 1,500	\$ 9,100
Sub Mark-up	\$ 532	\$ 105	\$ 637
Reimbursables:	\$ 500	\$ 600	\$ 1,100
TOTAL:	\$ 33,182	\$ 9,675	\$ 42,857
Environmental	\$ 8,160	\$ 4,360	\$ 12,520
Sub Mark-up	\$ 571	\$ 305	\$ 876
Total, Environmental	\$ 8,731	\$ 4,665	\$ 13,396
Commissioning	\$ 840	\$ 7,840	\$ 8,680
TOTAL:			\$ 64,933

**Fee Basis**

Our fee is based on the following:

- A. No significant changes will be made to the design program after the 50% design review period is complete.
- B. No changes will be made to design documents after the 90% design is issued, except to

respond to building permit review comments or contractor questions, or to incorporate necessary design revisions or clarifications.

- C. Evaluation of alternate design proposals by Contractor after Construction Documents are issued will be considered Additional Services.
- D. Preparation of multiple bid packages is not required.
- E. The existing outdoor dust collector serving the indoor range bullet trap/lead collection room will be retained.
- F. Air conditioning is not required for the new HVAC systems.
- G. New HVAC system design for the electrical room/storage room is not included in this effort.
- H. Plumbing design is not required. We do not anticipate any requirement to upgrade the existing plumbing systems as a part of this work effort.
- I. Fire Protection: Fire protection design is not included in this fee proposal. As part of the design effort, Săzăn will confirm that the addition of fire protection systems is not required.
- J. Electronic drawing files (PDF) will be provided for each design deliverable to Whatcom County Parks & Recreation. Săzăn Group will provide hard copies of design deliverables within the limit of our reimbursable expenses defined above. Additional document reproduction will be considered an additional service.
- K. Full time project representation during the Construction Phase is not required. Refer to the extent of representation identified above.
- L. Relocation of existing site utilities is not required. Civil/site design is not required.
- M. Services beyond the initially agreed upon Project Schedule time period will be considered Additional Services.
- N. Travel out of the Puget Sound/Bellingham region is not required.
- O. It is understood that the total project budget (including design/construction administration/commissioning costs) is \$289,900.

#### **Additional Services**

Following is a listing of potential Additional Services that are not included in our Basic Services. These services could be provided, subject to additional compensation.

- A. Regulated material surveys other than as described herein.
- B. Additional meetings or site visits during design/construction.
- C. Energy or Life Cycle Cost Analysis.

- D. Design of bid alternatives requiring multiple designs (other than as defined above).
- E. Evaluation of alternate design proposals by Contractor after Construction Documents Phase.
- F. Participation in value engineering studies.
- G. Participation in third party constructability reviews.
- H. Participation in a third party code compliance reviews.
- I. Architectural or other lighting systems design
- J. Communication systems design.
- K. Submittal of advanced permit sets.
- L. Electrical system metering is not included in this proposal. We do not anticipate that it will be required.

We appreciate this opportunity to be of service to **Whatcom County Parks & Recreation**. If this proposal is satisfactory, please sign below and return a copy to us as authorization to proceed, or issue other documentation as you deem necessary.

Sincerely,  
Săzăn Group, Inc.

  
C.Erik Larson, P.E.  
Associate Principal

**APPROVED: Whatcom County Parks & Recreation**

By: \_\_\_\_\_

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

Attachments:

- A. Environmental Services Fee Proposal
- B. Săzăn Group Standard Hourly Rates



July 18, 2016

Erik Larson  
Sazan Group  
600 Stewart Street, Suite 1600  
Seattle, WA 98101

**RE: Proposal for Hazardous Materials Consulting Services  
Plantation Range HVAC Replacement Fee Proposal (RCO#14-1127D)  
Bellingham, Washington  
PBS Proposal No.: WA26935 Rev 2**

Dear Mr. Larson:

PBS is pleased to provide this proposal to the Sazan Group for Hazardous Materials Consulting Services related to the above referenced project. This proposal outlines our proposed services and fees related to asbestos-containing materials (ACMs), lead dust and lead-containing paint (LCP),

Our project approach and associated fees are based on our preliminary telephone discussions with the Sazan Group concerning the scope of the project. The building is approximately 6,000 square feet in floor plan area and constructed of slab on grade, wood framing and a flat built up roof. It is our understanding that the scope of the project includes the following:

Sazan provided the following project work scope:

1. Remove all of the existing roof-mounted mechanical equipment, and patch/repair the roof accordingly. Abate all portions of the removed materials (assume everything to be removed is contaminated with lead).
2. Architectural, other than roof repairs, there will be new roof and possibly wall penetrations. We'll need architectural design for the roof repairs, penetrations, flashing, and sealing. No other architectural scope is anticipated other than possibly demo of an existing roof access ladder.
3. Structurally, with the new equipment being ground-supported, we'll need design for new wall/roof openings, and evaluation of a new concrete pad that will be furnished and installed by the Parks Department. We're only planning to remove equipment off the roof, so not expecting a need to analyze the existing structure.
4. There are 2 mechanical systems that will be replaced – one for the indoor gun range, and the other for the support spaces, which include a registration office, lobby/entry, and meeting/observation room, with adjoining restrooms. This project will not impact the existing storage rooms.
5. Electrical power revisions to support the new mechanical equipment (note we may convert from electric heat to propane as part of the project).

Following is an outline of our proposed services and associated fees:

2517 Eastlake Avenue East, Suite 100, Seattle, WA 98102  
206.233.9639 Main  
866.727.0140 Fax  
www.pbsenv.com

## **I. TASK 01 - INVESTIGATION PHASE**

The following tasks shall be completed during the investigation phase and the information gathered will be used in the design development process:

1. PBS will review previous hazardous materials survey data provided to PBS by Sazan to become familiar with known (or presumed) asbestos-containing materials (ACMs) in areas of planned renovation and to determine sampling strategy. Included in this activity is one trip to the site for a scoping meeting.
2. The information gathered will be used to develop sampling and inspection strategies. As appropriate, PBS will collect and analyze additional bulk samples of suspect ACMs previously assumed to contain asbestos, not previously identified, or inadequately tested according to AHERA protocols. Analysis will be performed using Polarized Light Microscopy (PLM). Included in the scope of these services is the collection and analysis of up to twenty (20) asbestos samples. Credit will be provided for samples not collected.
3. PBS has been requested to presume all surfaces lead-contaminated; however, baseline information will be an important factor in determining cleanup and disposal procedures. Baseline information includes sampling painted coatings and dust for lead content. PBS will sample representative painted coatings for the presence of lead. Analysis will be performed using atomic absorption methodology (AA). Included in the scope of these services is the collection and analysis of up to five (5) lead samples. PBS will collect additional wipe samples from representative building surfaces for the presence of lead in dust. Analysis will be performed using atomic absorption methodology (AA). Included in the scope of these services is the collection and analysis of up to five (5) lead wipe samples.
4. PBS will provide a report satisfying the WISHA requirement for the completion of a "good faith inspection" prior to demolition or renovation. This report will outline quantities and locations of ACMs, the extent of lead dust contamination and lead-containing paint.
5. An abatement cost estimate will be provided at the conclusion of the investigation phase. This document will be in a spreadsheet format, and will be provided separately from the survey report.

## **II. TASK 02 - CONTRACT DOCUMENT DEVELOPMENT**

Contract requirements for work related to asbestos and lead will be developed based upon data gathered during the investigation and testing. As appropriate, PBS will develop technical specifications governing asbestos and lead abatement activities, as necessary. The following tasks will be performed in the design development process.

1. Develop technical specifications and hazardous materials abatement plans representing locations and quantities of ACMs to be abated, sampling information, particular means and methods, and appropriate references to other specification sections.
2. PBS will produce hazardous materials abatement plans utilizing base plans to be provided by Sazan. This includes two drawing sheets.
3. Develop specifications addressing lead decontamination of the indoor firing range (IFR)

work areas. Specification requirements will be consistent with the EPA and WISHA guidelines for lead cleanup and exposure.

4. PBS will submit the documents outlined above to the design team for inclusion in the contract documents. PBS will provide draft documents at 90% CD for review and final bid documents.
5. PBS will respond to written questions from bidders through Sazan, to further clarify the scope of work.

### **III. TASK 03 - ABATEMENT OBSERVATION, MONITORING AND CLOSEOUT SERVICES**

PBS proposes the following services to occur during the Abatement Period of the project:

1. PBS will provide limited oversight during the abatement phase. The project manager will review the abatement work plan for specification compliance and ensure that technical issues are properly addressed. The PBS project manager will review and respond in writing to abatement contractor questions. This does not include site visits.
2. An experienced industrial hygienist will perform the following tasks when onsite:
  - a. Communication with project team members, client representative and other concerned parties;
  - b. Review and respond to RFIs from contractors, as necessary;
  - c. Observation of abatement activities including inspection of each work area;
  - d. Completion of field observation reports for each site visit;
  - e. Advise Sazan if the contractor is not in compliance with specifications and governing regulations;
  - f. Perform post abatement visual inspections and clearance sampling;
3. PBS will collect asbestos clearance air samples inside the contained/regulated work areas after abatement activities. Air monitoring will be conducted by PBS in accordance with the Construction Documents and applicable Federal, State and local regulations for asbestos removal. Air samples will be collected and analyzed using Phase Contrast Microscopy (PCM), in accordance with the NIOSH 7400 Method of analysis. All field inspectors are highly qualified PCM analysts. All PCM samples will be analyzed on site so that results are immediately available. Costs for air sample collection and analysis are included in the hourly rate.
4. PBS will collect lead wipe clearance samples inside the contained/regulated work areas after abatement/cleaning activities in accordance with the Construction Documents and applicable Federal, State and local regulations for lead dust cleanup.
5. Hand written reports will be made available immediately following each site visit. Air sampling results will be posted at the job site and will be reported to the building owner representative upon request. All air sample results will be included in the closeout report at the project completion.
6. The fee anticipates up to two (2) site visits which include all observation and clearance sampling efforts. Services will be billed on a time-and-material basis not to exceed basis. PBS's expenditure during the Construction Period is directly related to the schedule implemented by the Contractor over which PBS has no control or authority to control.



#### **IV. ASSUMPTIONS TO THE SCOPE OF WORK**

The scope of work and associated labor and sample budgets outlined in this proposal are based upon our preliminary understanding of the work. The following outlines PBS's limitations of scope for our proposed services:

1. PBS will inspect only accessible areas of the structures to be renovated or demolished. Inaccessible areas are those requiring confined space protocols or fall protection or destructive investigations. Should inspection of such areas be required, PBS will notify Sazan and submit a proposal for additional inspection services.

PBS will summarize conditions that, in our opinion, warrant further investigation and may require over-height access or confined space entry. Examples include over-height locations on ceiling and walls, etc.

2. PBS will collect and analyze only the number of particular types of samples as outlined above. Should conditions warrant additional sample collection and/or analysis, PBS will notify Sazan and provide such services at our standard rates. Sample turnaround is presumed to be non-rush.
3. Drafting services include the preparation of up to two (2) drawing sheets as part of each submittal, including investigation reporting and design documents. Should Sazan wish to utilize a drawing format that requires additional sheets, PBS will evaluate the impact to our budget and provide a proposal for additional fees as necessary.
4. PBS is including two site visits during construction, which also includes clearance activities. PBS's expenditure during the Construction Period is directly related to the schedule implemented by the Contractor and issues that arise, over which, PBS has no control or authority to control. This does not include additional sampling or site visits due to failed clearance wipes samples.

#### **V. ESTIMATED FEES**

Following is a breakdown of PBS's estimated fees for each task outlined above:

##### **Task 01 – Investigation Period Services**

Senior Project Manager (10 hrs @ \$130/hr) .....	\$1,300.00
AHERA Inspector (16 hrs @ \$85/hr) .....	\$1,360.00
Administrative (3 hrs @ \$65/hr) .....	\$195.00
PLM Asbestos Analysis - 2 day TAT (20 @ \$20/ea) .....	\$400.00
Lead Wipe Sample Analysis - 5 day TAT (5 @ \$25/ea) .....	\$125.00
AA Lead Paint Chip/Wipe Analysis - 5 day TAT (5 @ \$25/ea) .....	\$125.00
Reimbursable Expenses (eqpt, sampling supplies, mileage, etc.) ....	<u>\$300.00</u>

**TASK 01 TOTAL.....\$3,805.00**

##### **Task 02 – Design Period Services**

Project Designer (24 hrs @ \$130/hr) .....\$3,120.00  
AHERA Inspector (4 hrs @ \$85/hr) .....\$340.00  
CAD Drafting (8 hrs @ \$75/hr) .....\$600.00  
Administrative Support (3 hrs @ \$65/hr).....\$195.00  
Reimbursables (Reproduction, mileage etc.).....\$100.00

**TASK 02 TOTAL.....\$4,355.00**

**Task 03 – Construction Period Services**

Senior Project Manager (8 hrs @ \$130/hr) .....\$1,040.00  
Industrial Hygienist (20 hrs @ \$85/hr) .....\$1,700.00  
Administrative Support (4 hrs @ \$65/hr) .....\$260.00  
Clearance Lead Wipe Analysis - 2 day TAT (10 @ \$25/ea) .....\$250.00  
Closeout Report (6 hrs @ \$85/hr) .....\$510.00  
Reimbursables (Sampling supplies, mileage, courier, etc).....\$600.00

**TASK 03 TOTAL.....\$4,360.00**

**TOTAL ESTIMATED FEE.....\$12,520.00**

All services will be billed on a time-and-materials, not-to-exceed basis. Sample budgets outlined above are only estimates. Additional sampling may be required to comply with AHERA and EPA protocols or failed clearance samples. Additional sampling will be performed at our standard rates. PBS will only invoice for those samples collected and analyzed.

The above fees will be billed on a time-and-material NTE basis. The fees and the terms under which our services are provided will be in accordance with the attached General Terms and Conditions dated 03/2015, which together with this proposal comprise the entire agreement between the parties.

If this proposal is acceptable, please sign and return a copy to our Seattle office or provide us with a notice to proceed. We look forward to working with you on this project. Please call me if you have any questions.

Thank you for the opportunity to submit our proposal and we look forward to working with you on this project.

Respectfully,  
PBS Engineering and Environmental,



Gregg Middaugh  
Senior Project Manager  
Industrial Hygiene Group

**ACCEPTED BY:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## GENERAL TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

These General Terms and Conditions for Professional Services ("Terms and Conditions") are attached to and made part of the letter proposal from PBS Engineering and Environmental Inc. (PBS) outlining PBS' specific scope of services ("PBS Proposal"). This Agreement represents the entire and integrated agreement between the Client and PBS and supersedes all prior negotiations, representations or agreements, either written or oral. Hereafter the PBS Proposal once signed by both PBS and Client (together the "Parties") and these Terms and Conditions shall be read and interpreted together and referred to together as the "Agreement" between the Parties. If there are any inconsistencies between language in the PBS Proposal and in these Terms and Conditions, the language of these Terms and Conditions shall prevail.

The purpose of these Terms and Conditions is to identify basic contractual obligations of PBS and Client under the Agreement for various professional consulting services, whereby PBS would be acting in the role of Consultant/Owner Representative for Client. Individual projects may require additional detailed descriptions of services and associated Terms and Conditions, to be provided in a subsequent PBS Proposal or as a supplement to the Agreement.

1. **RIGHT OF ENTRY:** Unless otherwise agreed, the Client will furnish PBS right-of-entry on real property and be responsible for the propriety of the time, place, and manner of PBS' entry upon the real property and any buildings or structures where PBS is to perform its services ("Property"). PBS will take reasonable precautions to minimize damage to the Property from use of equipment, but PBS has not included in the fee the cost of restoration of the Property, unless specifically included in the Proposal. If the Client desires PBS to restore the Property to its approximate former condition, PBS will accomplish this and add the cost plus 15 percent (15%) to its fee.
2. **BURIED UTILITIES:** PBS field personnel are trained to initiate field testing, drilling and/or sampling within a reasonable distance of each designated utility location. PBS field personnel will avoid hazards or utilities that are observed by them at the site. If PBS is advised in writing of the presence or potential presence of underground or aboveground obstructions, such as utilities, PBS will give special instructions to its field personnel. PBS is not responsible for any damage or loss due to undisclosed or unknown surface or subsurface conditions owned by client or third parties. The client will hold PBS and PBS' subcontractors harmless from any loss resulting from inaccuracy of markings, of plans, or lack of plans, relating to the location of utilities. Note: Utility locates typically require two full working days advance notice.
3. **WORKER'S COMPENSATION INSURANCE AND LIABILITY INSURANCE:** PBS will provide Worker's Compensation insurance (and/or Employer's Liability insurance) as required by state statutes. PBS carries Comprehensive General Liability insurance which, subject to its terms and limits, may provide protection against liability relating to bodily injury or property damage arising out of PBS operations. PBS makes no representations or warranties concerning the effect, applicability or scope of such insurance. Upon request in writing by Client to PBS, PBS will request its insurer to name Client as an additional insured on such policies and to issue certificates to Client to that effect. PBS makes no representations or warranties regarding any act by its insurer(s) and shall not be responsible for performing any act with respect to such insurance not specifically called for by this paragraph.
4. **PROFESSIONAL LIABILITY AND LIMITATION THEREOF:** This paragraph relates only to Professional Liability and not General Liability. In performing its professional services, PBS will use that standard of care and skill ordinarily recognized under similar circumstances by members of its profession in the state and region at the time the services are performed. No other warranty, either expressed or implied, is made in connection with its rendering of professional services.
5. **CONTRACTED WORK:** PBS, including its subconsultants and subcontractors, is retained hereunder for the limited purpose of performing certain services, providing the results of such work to Client, and making recommendations with respect to the data produced by the work. PBS is not responsible for the health and safety of Client's personnel or other persons present on the Property to be investigated or constructed. PBS is not responsible (a) for the overall status of Client's project, (b) for the property Client owns or leases or may be interested in purchasing or leasing, (c) for the interpretation of the PBS report, design drawings or results by others, (d) for any use of PBS reports by Client or others except as specifically set forth herein, or (e) for any other matter not encompassed in the specific scope of work in this Agreement agreed to by PBS and Client. Any unauthorized use or distribution of PBS' work shall be at the Client and recipient's sole risk. If Client desires to release, or for PBS to provide, PBS' report(s) to a third party not a party to this Agreement for that party's reliance, PBS will agree to such a release provided PBS receives written acceptance from such third party to be bound by terms and conditions similar to those set forth in this Agreement, in addition to a fee for providing PBS reports to a new party. The Client shall indemnify, defend and hold harmless PBS and its subconsultants and subcontractors from any claims, damages, costs, losses and expenses, including but not limited to attorney fees and costs of arbitrations, mediations, trials, or appeals arising out of unauthorized or third party use of PBS' reports.
6. **RETENTION OF RECORDS AND SAMPLES:** PBS has a Records Retention policy (available upon request). All samples will be discarded 30 days after submission of PBS' final report unless other arrangements are made.
7. **PAYMENTS TO CONSULTANT:** Invoices will be submitted periodically for prior services. An account will become delinquent 30 days after date of billing. It is agreed that a late charge will be added to delinquent accounts at the rate of one-and-one-half percent (1-1/2%) for each thirty days delinquent (provided the rate of such late charge shall not exceed the maximum allowable by the laws of the state in which the PBS office submitting the invoice is located).
8. **RATE SCHEDULE:** Fees for services are based on the number of hours expended on the project, including travel, by PBS personnel plus any reimbursable expenses. PBS' hourly rates will be billed as stated in its proposal or at its current hourly rates (available upon request). Invoices will include sales tax when required.
9. **REIMBURSABLE EXPENSES:**
  - A. **Outside Services.** Subcontracted services such as those subconsultants and subcontractors, labor, and technical services will be invoiced at cost plus 15 percent (15%). Examples of services that may be subcontracted include other professional disciplines, soil boring, well installation, heavy and specialty equipment operators, geophysical surveys, commercial data base search providers, and computer programming.
  - B. **Supplies and Equipment.** Charges for items not ordinarily furnished by PBS such as expendable equipment, rental equipment, subsistence, travel expenses, tolls, special fees, reproduction, permits, licenses, priority mail fees, and long distance and wireless



telephone calls will be invoiced at cost plus ten percent (10%). Certain PBS-owned equipment (for sampling, testing, personal protective equipment, vehicle mileage, photocopying, etc.) may be required to complete the project. These will be invoiced at PBS' standard rates without markup (rates available upon request).

- C. **Laboratory.** PBS utilizes both in-house and outside laboratories for sample analysis. PBS maintains a list of standard rates for sample analyses commonly utilized in conjunction with PBS' services (available upon request).

10. **STANDARD OF CARE:** PBS' services will be provided consistent with and limited to the standard of care applicable to such services, which is that PBS will provide its services consistent with the professional skill and care ordinarily provided by consultants practicing in the same or similar locality under the same or similar circumstances. Such standard of care is not a warranty or guarantee and PBS shall have no such obligation. Accordingly, Client should prepare and plan for clarifications and modifications which may impact both the cost and schedule of the Project.
11. **RIGHT TO SUSPEND:** If Client fails to make payments to PBS in accordance with this Agreement, such failures shall be considered substantial nonperformance and cause for termination or, at PBS' option, cause for suspension of performance of services under this agreement. If PBS elects to suspend services, PBS shall give seven days' written notice to Client before suspending services. In the event of a suspension of services, PBS shall have no liability to the Client because of such suspension of services and Client shall indemnify and hold harmless PBS for any claims associated with such suspension.
12. **EMPLOYEE AND SERVICES SOLICITATION:** Client shall not solicit nor tender any employment offer to any PBS employee, or consulting services offer to any PBS subcontractor assigned to perform work for Client under this agreement within six (6) months of completion of their part of the work without prior written approval by PBS. Any breach of this provision resulting in the Client hiring for employment or consulting services any PBS employee or subcontractor will obligate the Client to compensate PBS for recruitment and service fees.
13. **OTHER PROVISIONS:** Neither party shall hold the other responsible for delay in performance caused by acts of God, strikes, lockouts, weather, accidents or other events beyond the control of the other or the other's employees and agents.

Waiver by one party of any provision, term, condition or covenant owed to it by the other party is to be made only by providing written notice to the other party and such waiver shall not be construed by the first party as a waiver of a subsequent breach of the same provision, term, condition or covenant by the other party. This Agreement supersedes any contract language which may be issued by Client as a matter of standard purchasing protocol without regard to the unique nature of professional services to be rendered by PBS.

An opinion of construction, remediation and restoration costs prepared by PBS represents its judgment as a professional. Since PBS has no control over the cost of labor and material, or over competitive bidding or market conditions, PBS does not guarantee the accuracy of its opinion as compared to contractor bids of actual cost to the Client.

It is understood and agreed by both parties that PBS, in performing professional services for the Client with respect to hazardous or microbial substances, will make recommendations to the Client but does not have the authority or responsibility to decide where disposal or treatment of such substances takes place, nor to designate how or by whom the hazardous or microbial substances are to be transported for disposal or treatment. It is understood that PBS is not the generator or site operator and does not own nor is it the arranger for disposal of the hazardous waste or other materials discovered, handled or removed from the Property. To the extent required by law, Client agrees to provide timely disclosure to appropriate public agencies of any information regarding the Property (obtained from PBS or from other sources) where such disclosure may be necessary to prevent damage to human health, safety, or the environment.

Client agrees that PBS and its subconsultants and subcontractors are not responsible for the creation of the condition(s) PBS is being asked to investigate and that it would be unfair for PBS to be exposed to claims of injury or damage as a result of the conditions. In addition, Client understands that it is possible that exploration and investigation may fail to reveal the presence, location or source of the condition(s) being investigated even when the condition(s) is assumed or expected to exist. Client understands that PBS' failure to discover and/or locate the condition(s) or the spread of the condition(s) through appropriate techniques does not guarantee that the condition(s) does or does not exist. Client agrees that it would be unfair to hold PBS liable for creating the condition(s) or the spread of the condition(s) providing PBS meets a reasonable standard of care in completing the work set out in the PBS Proposal.

Accordingly, Client waives any claims against PBS and its subconsultants and subcontractors, and agrees to defend, indemnify and hold harmless PBS and its subconsultants and subcontractors from any and all claims or liability for injury to person or property or loss arising from the creation of the condition(s) or the unintentional exacerbation of the condition(s) by PBS, the exacerbation of hazardous conditions by others, the discovery of any condition, location of any condition and/or allowing any condition to exist. Client also agrees to fairly compensate PBS and its subconsultants and subcontractors for any time spent and expenses incurred in the defense of any such claim. Notwithstanding any provisions in the Agreement to the contrary, PBS' liability for all acts and omissions related to its provision of services to Client under the terms of this Agreement shall be limited to the amount of PBS' insurance and in no circumstances shall such liability of PBS include special or consequential damages.

PBS does not provide legal opinions, and recommends client seek legal counsel for advice on issues such as the appropriateness of a particular scope of work to minimize legal liability, reportability of a condition to a public agency, potential cost recovery from responsible parties, and to assess the value of maintaining attorney/client privilege for work conducted under this Agreement.

In the event there is a dispute between PBS and the Client concerning the performance of any provision in this Agreement, the losing party shall pay the prevailing party reasonable attorney's fees and costs in mediation, arbitration, trial or appeal. In addition, Client agrees to pay PBS for all employee time, costs, and witness costs incurred for collection activity. This Agreement can be terminated at any time by either party. If terminated prior to the completion of a scope of work, PBS shall be entitled to its portion of fees for any work performed in accordance with its current rate schedule.



## Rate Schedule - 2016

January 1, 2016

### Säzän General Rates

<u>Staff Category</u>	<u>Hourly Rate</u>
Principal / Director	\$165
Associate Principal	\$150
Associate	\$145
Project Manager	\$140
Senior Engineer	\$135
Senior Designer	\$115
Engineer	\$95
Designer	\$75
Drafting/AutoCAD	\$85
Administrative Assistant	\$70
Commissioning Manager	\$150
Commissioning Agent	\$125
TAB Technician	\$120

#### Reimbursables

In-house printing, all sizes	\$0.09 / page
Plotting	\$0.75 / square foot
Travel	\$0.54 / mile
Other travel (business class air, hotel, meals, transportation, etc.)	At cost
Express delivery and other expenses At request of client	At cost

600 Stewart St., Ste 1400  
Seattle, Washington 98101

Tel: 206.267.1700  
Fax: 206.267.1701

sazan.com



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/18/2016

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

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

<b>PRODUCER</b> Michael J Hall & Company Hall & Company 19660 10th Ave NE Poulsbo WA 98370		<b>CONTACT NAME:</b> Michael J Hall & Company <b>PHONE (A/C, No, Ext):</b> 360-598-3700 <b>FAX (A/C, No):</b> <b>E-MAIL ADDRESS:</b> certificates@hallandcompany.com	
<b>INSURED</b> Sazan Group Inc 600 Stewart Street, Ste 1400 Seattle WA 98101		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Travelers Casualty and Surety Co of 31194 <b>INSURER B:</b> Sentinel Insurance Company 11000 <b>INSURER C:</b> Hartford Casualty Insurance Company 29424 <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	

**COVERAGES****CERTIFICATE NUMBER:** 538436096**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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	GENERAL LIABILITY			52SBAPN0916	8/1/2015	8/1/2016	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COM/OP AGG \$4,000,000 POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC
X	COMMERCIAL GENERAL LIABILITY						
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						
X	OCP/XCU/BFPD						
X	Separation Insd						
	GEN'L AGGREGATE LIMIT APPLIES PER:						
	POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
B	AUTOMOBILE LIABILITY			52UECZN6443	1/29/2016	1/29/2017	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	ANY AUTO						
	ALL OWNED AUTOS						
X	HIRED AUTOS						
	SCHEDULED AUTOS						
	NON-OWNED AUTOS						
C	UMBRELLA LIAB			52SBAPN0916	8/1/2015	8/1/2016	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 DED <input checked="" type="checkbox"/> RETENTION \$10,000
	EXCESS LIAB						
	CLAIMS-MADE						
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			52SBAPN0916	8/1/2015	8/1/2016	WC STATUTORY LIMITS <input checked="" type="checkbox"/> OTH-ER WA Stop Gap E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						
	If yes, describe under DESCRIPTION OF OPERATIONS below						
A	Professional Liab; Claims Made			105475200	8/1/2015	8/1/2016	\$2,000,000 Per Claim \$4,000,000 Aggregate

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

Certificate Holder(s) is/are an Additional Insured on the Commercial General Liability and Auto Liability when required by written contract or agreement regarding activities by or on behalf of the Named Insured. The Commercial General Liability insurance is primary insurance and any other insurance maintained by the Additional Insured shall be excess only and non-contributing with this insurance. A waiver of subrogation applies to the Commercial General Liability, Auto Liability in favor of the Additional Insured.

Plantation Indoor Range HVAC Replacement

**CERTIFICATE HOLDER****CANCELLATION**Whatcom County Parks & Recreation  
3373 Mt. Baker Hwy  
Bellingham WA 98226

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

Matthew L. Copus

© 1988-2010 ACORD CORPORATION. All rights reserved.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

#### 1. BROAD FORM INSURED

##### A. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

- (1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- (2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
  - (a) That is a partnership or joint venture,
  - (b) That is an "insured" under any other policy,
  - (c) That has exhausted its Limit of Insurance under any other policy, or
  - (d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

##### B. Employees as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add:

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

##### C. Lessors as Insureds

Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
  - (1) The agreement requires you to provide direct primary insurance for the lessor and
  - (2) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

##### D. Additional Insured if Required by Contract

- (1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

- (1) During the policy period, and
- (2) Subsequent to the execution of such written contract, and
- (3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

**(2) How Limits Apply**

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- (a) The limits of insurance specified in the written contract or written agreement; or
- (b) The Limits of Insurance shown in the Declarations.

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

**(3) Additional Insureds Other Insurance**

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

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

**(4) Duties in The Event Of Accident, Claim, Suit or Loss**

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - OF SECTION IV - BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

**E. Primary and Non-Contributory if Required by Contract**

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

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

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

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

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

Paragraphs (3) and (4) do not apply to other insurance to which the additional insured has been added as an additional insured.

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

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

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

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

**2. AUTOS RENTED BY EMPLOYEES**

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:



If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

### **3. AMENDED FELLOW EMPLOYEE EXCLUSION**

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

### **4. HIRED AUTO PHYSICAL DAMAGE COVERAGE**

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

- (1) \$100,000;
- (2) The actual cash value of the damaged or stolen property at the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

### **5. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE**

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day and a maximum limit of \$1,000.

### **6. LOAN/LEASE GAP COVERAGE**

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

### **7. AIRBAG COVERAGE**

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

### **8. ELECTRONIC EQUIPMENT - BROADENED COVERAGE**

a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto";
- (2) Removable from a housing unit which is permanently installed in or upon the covered "auto";
- (3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or

- (4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. Section III – Version CA 00 01 03 10 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C.2 and Version CA 00 01 10 01 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C are each amended to add the following:

\$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
- (2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
- (3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or \$250, whichever deductible is less.

#### **9. EXTRA EXPENSE - BROADENED COVERAGE**

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

#### **10. GLASS REPAIR - WAIVER OF DEDUCTIBLE**

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

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

#### **11. TWO OR MORE DEDUCTIBLES**

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

- (1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;
- (2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

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

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

#### **13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

#### **14. HIRED AUTO - COVERAGE TERRITORY**

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV - BUSINESS AUTO CONDITIONS is replaced by the following:

e. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

#### **15. WAIVER OF SUBROGATION**

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

#### **16. RESULTANT MENTAL ANGUISH COVERAGE**

The definition of "bodily injury" in SECTION V-DEFINITIONS is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

#### **17. EXTENDED CANCELLATION CONDITION**

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

#### **18. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE**

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of \$2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,

b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is \$10,000.

For the purposes of the coverage provision,

a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.

b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

#### **19. VEHICLE WRAP COVERAGE**

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to \$1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is \$5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.

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

**b. Real Estate Manager**

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

**c. Temporary Custodians Of Your Property**

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

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

**d. Legal Representative If You Die**

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

**e. Unnamed Subsidiary**

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

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

**3. Newly Acquired Or Formed Organization**

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

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

b. Coverage under this provision does not apply to:

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

**4. Operator Of Mobile Equipment**

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

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

**5. Operator of Nonowned Watercraft**

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

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

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



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

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



## BUSINESS LIABILITY COVERAGE FORM

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

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

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

### a. Vendors

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

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

This insurance does not apply to:

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

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

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

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

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

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

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

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

### b. Lessors Of Equipment

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

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

**c. Lessors Of Land Or Premises**

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

**d. Architects, Engineers Or Surveyors**

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

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

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

**f. Any Other Party**

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

## BUSINESS LIABILITY COVERAGE FORM

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

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

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

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

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

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

#### 1. The Most We Will Pay

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

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

#### 2. Aggregate Limits

The most we will pay for:

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

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

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

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

#### 3. Each Occurrence Limit

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

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

#### 4. Personal And Advertising Injury Limit

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

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

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

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

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

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

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

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

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

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

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

### **1. Bankruptcy**

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

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

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

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

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

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

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

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

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

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

You and any other involved insured must:

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

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

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

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

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

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

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

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

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



## BUSINESS LIABILITY COVERAGE FORM

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

### 3. Financial Responsibility Laws

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

### 4. Legal Action Against Us

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

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

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

### 5. Separation Of Insureds

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

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

### 6. Representations

#### a. When You Accept This Policy

By accepting this policy, you agree:

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

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

### b. Unintentional Failure To Disclose Hazards

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

### 7. Other Insurance

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

#### a. Primary Insurance

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

#### b. Excess Insurance

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

##### (1) Your Work

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

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

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

##### (3) Tenant Liability

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

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

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

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

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

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

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

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

That is other insurance available to an additional insured.

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

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

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

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

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

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

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

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

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

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

**c. Method Of Sharing**

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

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

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

**a. Transfer Of Rights Of Recovery**

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

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

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