

AGREEMENT FOR LODGING TAX FUNDS

THIS AGREEMENT FOR LODGING TAX FUNDS (“Agreement”) is entered into on the date written below between the City of Bainbridge Island, a Washington State municipal corporation (“City”), and Visit Kitsap Peninsula, a Washington State nonprofit corporation] (“Recipient”).

WHEREAS, the Recipient submitted a proposal for Lodging Tax funds for lodging and tourism marketing support as described in **Attachment A**; and

WHEREAS, upon recommendation of the Lodging Tax Advisory Committee and approval by the City Council at their December 11, 2018 meeting, the City has awarded this Agreement to effectuate the scope of work, as described in **Attachment A**; and

WHEREAS, the Recipient has the expertise and experience to arrange for said services and work and is willing to do so in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, promises, and agreements set forth herein, it is agreed by and between the City and the Recipient as follows:

1. SERVICES AND WORK BY RECIPIENT

The Recipient shall arrange for the services and work as specified in this Agreement and as necessary to accomplish the scope of work attached hereto as **Attachment A** and incorporated herein by this reference as if set forth in full. The Recipient shall arrange for all services, labor, and related equipment to conduct and complete the work, except as specifically noted otherwise in this Agreement. The scope of work set forth in **Attachment A** shall also include a project budget for the services and work to be performed for the City under this Agreement.

The Recipient, in its activities and promotional materials, shall acknowledge financial support from the City related to the work and services funded by this Agreement.

2. TERM AND TERMINATION OF AGREEMENT

A. This Agreement shall become effective upon execution by both parties and shall continue in full force until December 31, 2019, unless sooner terminated by either party as provided below. The terms of this agreement shall cover activities performed by the Recipient between January 1, 2019 through December 31, 2019.

B. This Agreement may be terminated by either party without cause upon thirty (30) days’ written notice to the other party. In the event of termination, all finished or unfinished documents, reports, or other material or work of the Recipient pursuant to this Agreement shall be submitted to the City, and the Recipient shall be entitled to just and equitable compensation at the rate set forth in Section 3 for any satisfactory work completed prior to the date of termination.

3. PAYMENT

A. The City shall pay the Recipient Twelve Thousand Dollars (\$12,000.00) for all services and work performed and all approved expenses incurred for the sole and specific purpose of accomplishing the scope of work, according to the budget provided within **Attachment A**, in amounts to be billed quarterly. The Recipient shall execute this Agreement by March 31, 2019, in order to receive funding, and all goods and services specified in this Agreement shall be provided during calendar year 2019.

B. The Recipient shall submit, in a format acceptable to the City, quarterly invoices for services performed in a previous quarter. Each project shall be the subject of a separate invoice. The Recipient shall maintain time and expense records and provide them to the City upon request.

C. The City shall pay all invoices by mailing a City check within sixty (60) days of receipt of a proper invoice from the Recipient.

D. If the services rendered do not meet the requirements of this Agreement, the Recipient shall correct or modify the work to comply with this Agreement. The City may withhold payment for such work until it meets the requirements of this Agreement.

4. REPORT ON EXECUTION OF SERVICES

The Recipient shall submit a report on services and work prior to or accompanying its final quarterly invoice, but not later than January 17, 2020. This report should be no longer than five pages, excluding budget detail, and should follow the outline below:

- Summarize the activities undertaken in providing the scope of work described in **Attachment A**.
- Reference the project objectives specified in **Attachment A**. Were those objectives achieved? Why or why not? Were there any unexpected positive outcomes or challenges?
- Reference the specific measurable results specified in **Attachment A**. Were they achieved? If not, what challenges prevented the achievement of the anticipated results?
- Describe involvement of any partners specified in **Attachment A**, as well as any unexpected cooperative relationships that developed through implementation of the project.
- Reference the project budget specified in the **Attachment A**. Provide an analysis of actual expenses and income in relation to the projected budget.
- Provide a good faith best-estimate of actual attendance generated by the scope of work in the three categories below:
 - a. Travelers staying overnight in paid accommodations away from their place of residence or business;
 - b. Travelers staying overnight in unpaid accommodations (e.g., with friends and family) and traveling more than 50 miles;

- c. Travelers for the day only and traveling more than 50 miles.
- Describe the methodologies used to arrive at the good faith estimate of actual attendance numbers described above.

5. INSPECTION AND AUDIT

The Recipient shall maintain all books, records, documents, and other evidence pertaining to the costs and expenses allowable under this Agreement in accordance with generally accepted accounting practices. All such books and records required to be maintained by this Agreement shall be subject to inspection and audit by representatives of the City and/or the Washington State Auditor at all reasonable times, and the Recipient shall afford the proper facilities for such inspection and audit. Representatives of the City and/or the Washington State Auditor may copy such books, accounts, and records if necessary to conduct or document an audit. The Recipient shall preserve and make available all such books of account and records for a period of three (3) years after final payment under this Agreement. In the event that any audit or inspection identifies any discrepancy in such financial records, the Recipient shall provide the City with appropriate clarification and/or financial adjustments within thirty (30) calendar days of notification of the discrepancy.

6. INDEPENDENT CONTRACTOR

A. The Recipient and the City understand and expressly agree that the Recipient is an independent contractor in the performance of each and every part of this Agreement. The Recipient expressly represents, warrants, and agrees that its status as an independent contractor in the performance of the work and services required under this Agreement is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195. The Recipient, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing the services and work required under this Agreement. The Recipient shall make no claim of City employment nor shall the Recipient claim any related employment benefits, social security, and/or retirement benefits.

B. The Recipient shall be solely responsible for paying all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the Recipient shall pay the same before it becomes due.

C. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Recipient performs hereunder.

D. The Recipient and any subcontractors shall obtain a business license and, if applicable, pay business and occupation taxes pursuant to Title 5 of the Bainbridge Island Municipal Code.

7. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

A. The Recipient agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, sexual orientation, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

B. The Recipient shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.

C. Violation of this Section 7 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension by the City, in whole or in part, and may result in ineligibility for further work for the City.

8. OWNERSHIP OF WORK PRODUCT

All data, materials, reports, memoranda, and other documents developed under this Agreement, whether finished or not, shall become the property of the City and shall be forwarded to the City in hard copy and in digital format that is compatible with the City's computer software programs.

9. GENERAL ADMINISTRATION AND MANAGEMENT

The City Manager of the City, or their designee, shall be the City's representative, and shall oversee and approve all services to be performed, coordinate all communications, and review and approve all invoices, under this Agreement.

10. HOLD HARMLESS AND INDEMNIFICATION

A. The Recipient shall defend, indemnify, and hold the City, its officers, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits, including attorneys' fees, arising out of or resulting from the acts, errors, or omissions of the Recipient in the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

B. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Recipient and the City, its officers, officials, employees, and volunteers, the Recipient's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Recipient's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Recipient's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

C. The City's inspection or acceptance of any of the Recipient's work when completed shall not be grounds to void, nullify, and/or invalidate any of these covenants of indemnification.

D. Nothing contained in this Agreement shall be construed to create a liability or a right of indemnification in any third party.

11. INSURANCE

The Recipient shall maintain insurance as follows and as further described in **Attachment B**:

- Commercial General Liability as described in **Attachment B**.
- Directors and Officers Liability as described in **Attachment B**.
- Automobile Liability as described in **Attachment B**.
- Workers' Compensation as described in **Attachment B**.
- None.

12. SUBLETTING OR ASSIGNING CONTRACT

This Agreement, or any interest herein or claim hereunder, shall not be assigned or transferred in whole or in part by the Recipient to any other person or entity without the prior written consent of the City. In the event that such prior written consent to an assignment is granted, then the assignee shall assume all duties, obligations, and liabilities of the Recipient as stated herein.

13. EXTENT OF AGREEMENT/MODIFICATION

This Agreement, together with **Attachments A and B**, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified, or added to only by written instrument properly signed by both parties.

14. SEVERABILITY

A. If a court of competent jurisdiction holds any part, term, or provision of this Agreement to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

15. FAIR MEANING

The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either party hereto because of authorship. This Agreement shall be deemed to have been drafted by both of the parties.

21. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

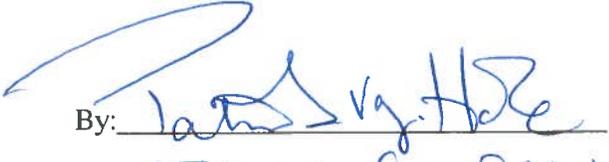
IN WITNESS WHEREOF, the parties have executed this Agreement as of the later of the signature dates included below.

VISIT KITSAP PENINSULA

CITY OF BAINBRIDGE ISLAND

Date: February 16, 2019

Date: February 15, 2019

By: 



Name: Patricia Graf-Hoke

By: _____

Morgan Smith, City Manager

Title: Director

Tax I.D. #: 91-1146544

ATTACHMENT A
SCOPE OF WORK

LODGING/TOURISM FUND APPLICATION - 2019

Applicant Information

Please respond to each of these questions in the order listed. If the proposal includes multiple partners, please include the requested information for each organization.

1. *Describe the applicant organization's mission, history, and areas of expertise. Describe the applicant's experience in tourism promotion on Bainbridge Island and its demonstrated ability to complete the proposed project.*

Visit Kitsap Peninsula (VKP) was established in 1983 and is recognized by WA State as the official Destination Marketing Organization (DMO) responsible for representing Kitsap County/Kitsap Peninsula Region. Tourism is an established economic development sector recognized by Washington State Dept. of Commerce, Puget Sound Regional Council, Kitsap Economic Development Alliance (KEDA) and is included in Kitsap County's 2036 Comprehensive Plan. As a 501(c)(6) entity, the VKP cannot solicit or accept tax deductible, charitable contributions and relies on allocation of lodging tax funds for about 95% of its base annual income.

The primary mission of the VKP is to use lodging tax funds and other financial contributions to provide marketing programs that directly support lodging establishments and other tourism stakeholders in the three commissioner districts in Kitsap County and the region in general.

The VKP believes what is good for the environment, is good for the economy and has embraced that philosophy as part of its long-term marketing and branding strategy. The VKP is dedicated to fostering the value of long-term stewardship of public lands that benefit residents and visitors.

Please note: The VKP is strictly a marketing agency. It does not own a facility, host events, sell tickets, make or track direct lodging reservations. Its mission, like the ad agencies that market Starbucks or Alaska Airlines is to promote Bainbridge Island/Kitsap Peninsula as a tourism destination and entice visitors to choose Bainbridge Island/Kitsap Peninsula region over the competition. The VKP does not sell the "lattes" or "book the flight" its sole purpose is to sell the brand...the destination...and ensure that Bainbridge Island and its tourism stakeholders stay in the limelight and support the tourism marketing efforts of Bainbridge Island organizations.

In 2009, the VKP initiated the branding campaign, "the Natural Side of Puget Sound", to create a point of difference with other tourism marketing organizations in the region. Based on the explosive growth occurring in the Seattle and surrounding Puget Sound region, it is a position...and promise... that is particularly relevant today. Bainbridge Island's open spaces, farmlands, estate wineries, gardens and public parks are featured in VKP visitor information materials as noted in the Project Information section and samples in the addendum. We believe that the marketing strategy used by the VKP supports Bainbridge Island's tourism goals and vision.

Alternate question for event or facility funding:

Describe the event or facility proposed including its purpose, history, and budget. Include past attendance history if applicable, and estimate the number of tourists drawn to the event or facility/year. Please estimate total attendance and the number of tourists estimated to attend for 2019. How has the activity been promoted in the past (if applicable) and what promotion is planned for 2019?

2. *If appropriate, please identify the project partner(s) and briefly describe the involvement of each. Please note that the maximum award of \$125,000 will apply to any single project, even if proposed by a team of partners.*
3. *If appropriate, please list each project and amount of funding awarded and utilized from the Lodging Tax (Civic Improvement) Fund within the last five years (2014-2018).*
 - From 2013-2016, the VKP did not receive lodging tax funds. In 2017, the VKP was awarded \$9,000 in direct funds and received \$5,000 from the Bainbridge Island Lodging Association (BILA) in additional support. The VKP plans to continue to provide year-round support for BILA and other Bainbridge Island tourism stakeholders, but for 2019, the VKP has agreed to secure all necessary funding directly from the City of Bainbridge Island.
4. *If any previous projects by the applicant were funded through the Lodging Tax (Civic Improvement) Fund and were not completed and/or if reports were not submitted to the City as requested, please explain: N/A*

LODGING/TOURISM FUND APPLICATION - 2019

Project Information

1. Describe the proposed project.

a. **Scope:** Identify the Project's main objectives and how each will be achieved. Be as specific as possible about the proposed services, measurable impacts, distribution method, and costs.

The VKP provides year-round professional level marketing, advertising, PR, digital media, distribution of materials and promotional support primarily to attract visitors for one or more nights. While VKP marketing programs are extremely effective in attracting day visitors, it appreciates there are other Bainbridge Island organizations that also target day visitors. To compliment those efforts, the VKP primary sales strategy is to target visitors most likely to choose to travel from out of the area to Bainbridge Island/Kitsap for one or more nights, and for vacations. VKP continues to target employees working in Seattle/Puget Sound and encourage them to hop ab a a WA State Ferry to Bainbridge Island and head to Kitsap to use their unused vacation days. Research indicates that visitors who stay multiple nights spend more time and money on shopping, dining and other activities. Using a wide-range of marketing programs, the VKP has the ability to easily share information about Bainbridge Island with regional and US and international prospects.

Our goal is to provide Bainbridge Island with useful, affordable and effective marketing tools that compliment, versus duplicate or compete with current and future marketing programs employed by other BI organizations. The VKP believes that robust marketing resources directly benefit and support Bainbridge Island tourism related businesses, attractions, events and non-profit groups. Please see examples in addendum.

The VKP distributes information about Bainbridge Island via a wide-range of marketing vehicles that include, but are not limited to: the very popular VKP Visitor Guide & Bike Map (the only one like it produced in the county), the newly expanded 2018 KP National Water Trails Map, online inter-active map (paid for with a special grant from Kitsap County), a our very popular region-wide visitor info cards/guides for Gardens & Nurseries, Museums, Farmer's Markets, Art Galleries, Kitsap Loves Kids, Golf and Brewery Guide. (see addendum for samples). Bainbridge Island also has a dedicated page on the VKP website at: <https://www.visitkitsap.com/bainbridge-island> that lists key attractions and visitor information resources. Attractions, businesses, lodging information, events and activities are included in dozens of other sections and pages throughout the VKP website at www.VisitKitsap.com; Agritourism, Arts & Culture, Places to Stay, Places to Go, Things To Do, Parks & Nature, Outdoor Recreation, and many more.

Bainbridge is featured in VKP blog posts, the VKP International website, the new Kitsap Peninsula National Water Trails website, and in paid Facebook social media posts which is among the most popular in the region (See attached FB comparison report). The VKP includes information about Bainbridge Island in the visitor packets (\$3 each it mails in response to the 150-300 requests it receives monthly from prospective visitors located around the USA and the world. Information about Bainbridge Island is included in packets the VKP distributes to travel agencies, editors, freelance writers, planners and others seeking information about Bainbridge Island and the region. It has worked with Sunset Magazine, Alaska Airlines, NW Travel Magazine, Seattle Times, and other publications as well as travel writers/editors to provide information about Bainbridge Island and fact check articles.

*To avoid competition with Chambers of Commerce and other business organization that rely on membership and monthly luncheon fees, the VKP does not charge any fees for access to the VKP website, advertisements or other day-to-day marketing services. Most marketing costs are covered by lodging tax funds from Kitsap County and other Kitsap cities. **The VKP relies on Lodging Tax Funds for nearly 100% of its annual budget.***

b. **Budget:** Include a detailed budget for the proposed project itemizing expenses and income. Include the amount requested from the Lodging Tax Fund and identify other sources of funding anticipated or obtained, including matching funds, as well as any in-kind contributions necessary to complete the project.

The VKP is again requesting \$18,000 or \$1,500 per month from the City of Bainbridge Island for 2019. The \$18,000 represents about 6.9% of BI's total budget and would contribute about 5% in just direct expenses a about 3% of the estimated \$450K required to fund a basic region-wide tourism marketing program.

c. **Schedule:** Provide a project timeline that identifies major milestones.

The VKP provides the City of Bainbridge Island with marketing services, representation and visitor access to information about Bainbridge Island 24/7, year-round. The VKP works with BI partners to identify events, packages, programs and activities for year-round promotion, especially during the shoulder seasons. BI stakeholders have free, 24/7 access to post their tourism related events on the VKP Calendar, many of which are posted on VKP Facebook with nearly 10K fans, blog posts and other social media sales channels. Again, all at no charge to Bainbridge Island stakeholders which are among the most active users of the VKP Calendar.

If applicable, please describe the project's scalability. How would the project scope and budget be adjusted should the full amount of the LTAC funding request not be awarded? Please provide specifics.

The mission of the VKP is to ensure prospects and visitors have the best experience possible. We want them to return and refer us to their family and friends...a major sales channel. We provide easy access to timely, accurate information about attractions, events, lodging, amenities and services available in Kitsap County-Kitsap Peninsula region. The funding request of \$18K is applied toward providing the basic services the VKP provides the City of Bainbridge which includes design, production, printing and distribution programs, paid media, professional level public/media relations, FAM tours with travel writers and with Port of Seattle International Tourism Office as well as other tourism marketing activities.

2. Provide a brief narrative statement to address each of the stated selection criteria. Describe outcomes anticipated from each criterion, as well as the overall project. a. *Expected impact on increased tourism in 2018. Please provide specific estimates of how the project will impact the number of people traveling fifty miles or more to Bainbridge Island for the activity, or who will travel from another country or state outside of Washington State to attend the activity. If appropriate, compare/contrast this impact to the actual or estimated number of tourists at your event/facility in 2016 and estimates for 2017.* b. *Expected impact on or increase in overnight stays on the island. Please include actual or estimated numbers of tourists who will stay overnight in paid accommodations in Bainbridge Island lodging establishments in 2018 as a result of the proposed activities. Please include the basis for any estimates.*

As noted in the opening statement, the VKP does not directly sell tickets, track attendance at events, book or track lodging reservations so it simply does not have access to quantifiable data. Instead the VKP uses data from the WA State Department of Revenue to track results related to the increase in lodging sales and growth of the region's tourism industry. Please refer to #e. for additional comments.

c. *Projected economic impact on Bainbridge Island businesses, facilities, events, and amenities, including sales of overnight lodging, meals, tours, gifts, and souvenirs (helpful data may be found on the WA State Department of Commerce website).*

The VKP believes the consistent, reliable marketing services and support it provides to the City of Bainbridge Island directly contributes to the city's economic success. Equally important is the VKP's branding and messaging strategies that promote Bainbridge Island and the region as a nature-based destination directly supports Bainbridge Islands environmental, agritourism, arts and cultural image that help to attract visitors to the Island from around the region and the world.

The marketing materials produced by the VKP include web addresses, phone numbers, and email info for Bainbridge Island lodging, attractions and events so that readers may contract lodging and other tourism organizations directly vs only going through the VKP. However, the VKP website does attracts 60K plus visitors a month. A Google search for "Bainbridge Island" ranks VisitKitsap.com/Bainbridge-Island #9 of 15,300,000 results. Please refer to #e. for specific sales data.

d. *The project's potential to draw visitors and increase overnight stays during off-season, i.e., Oct. 1 until Memorial Day.*

The VKP works with local organization to ensure that Bainbridge Island events are promoted via VKP marketing programs year-round but especially during the shoulder seasons. In partnership with the Port of Seattle International Tourism Office, the VKP conducts FAM tours with UK travel agencies as well as with travel writers.

e. The applicant's demonstrated history of organizational and project success.

As reflected in updated 2017 report Dean Runyan Associates and report from the WA State Department of Revenue for Accommodations (Kitsap County/Cities), sales revenue for Kitsap's lodging establishments and tourism industry continues its impressive upward trend. As noted in the attached report, 2010 to 2017, tourism related sales between 2010 and 2017 increased nearly \$100 million dollars or 45%. Lodging revenues alone for Kitsap County/Cities increased from \$24 million to \$38 million or 57%. Also, included in the report is data for Eating & Drinking establishments which has also seen a significant increase.

f. Describe any partnerships with other organizations and businesses in the proposed project – including efforts to minimize duplication of services where appropriate and encourage cooperative marketing.

As in 2017-18, the VKP plans to again partner with the **Bainbridge Island Lodging Association (BILA)** to attract overnight and multi-day/night visitors, as well as day visitors likely to return for one or more night stays. BILA and its members have free access on the VKP website and a reference to BILA and its website address are included in nearly all VKP marketing materials including the VKP Visitor/Bike Map which is distributed via Certified Folder aboard the WA State Ferries and 134 visitor locations around the Puget Sound region. BILA and other BI tourism related businesses, attractions and events are featured at no charge in VKP paid advertisements, and in VKP produced visitor info rack cards all at no additional charge. BILA coordinator, Kelly Gurza, is a member of the VKP Board of Directors and our liaison with Bainbridge Island hoteliers, merchants and other tourism stakeholders.

The VKP also partners with the **Bainbridge Island Wine Alliance** to promote its scheduled and non-scheduled wine tours to encourage both day and overnight stays at lodging establishments on Bainbridge Island and throughout the Kitsap Peninsula region. The VKP also provides direct support to local BI wineries and paid media support for events. The VKP provides copies of the VKP Visitor Guide & Bike Map, KP National Water Trail Guide, and other tourism promotion materials to the City of Bainbridge Island, Bainbridge Island Chamber of Commerce and other organizations as well as free access to VKP Calendar of Events.

The VKP provides free marketing support to Bloedel Reserve, Bainbridge Island Museum of Art, Islandwood, BI Studio Tours, Quilt Show, BI Farmer's Market, and many other community events that showcase Bainbridge Island attractions, events and businesses.

g. Describe the degree to which the project goals and/or results can be objectively assessed.

A quick review of VKP print and online marketing materials clearly show that the VKP is using BI lodging tax funds to ensure that Bainbridge Island is featured on a wide-range of tourism marketing materials. The City of Bainbridge Islands is able to leverage the \$18K/\$1,500 per month allocation to the VKP, and be included in paid advertising and other marketing programs at a fraction of the cost, most which is paid for by Kitsap County. The combined lodging tax dollars allocated from Kitsap County and its cities, including Bainbridge Island, are critical to keeping the region competitive in its efforts to attract leisure travelers. Working together as a region, we can continue to promote the regions nature-based tourism assets and continue to grow Bainbridge Island's and the region's tourism industry.

h. Describe the degree to which the project will leverage award funds with additional matching funds or donated in-kind goods or services.

As noted above, the VKP combines funds from Kitsap County, Kitsap cities and other donors to implement a wide-range of marketing programs. It is basically a form of "co-op marketing" where all stakeholders contribute funds to help cover a portion of the cost. Bainbridge Island contributes to the region's nature-based tourism image and we hope it will again be a partner to contribute to and share the economic benefits of Kitsap's tourism industry.

Thank you to the Bainbridge Island Lodging Tax Committee members for its time and consideration of this proposal submitted by Visit Kitsap Peninsula.

BUDGET ADDENDUM: SECTION 1, b of 2019 BI Lodging Tax Application/Revised Jan 2019.

**Visit Kitsap Peninsula Tourism Marketing Programs & Services
Provided To the City of Bainbridge Island for 2019**

2019 Bainbridge Island Lodging Tax Allocation Request:	\$12,000.00		
% of Direct Tourism Marketing Expenses	3.3%		
Expense Categories <i>(per estimated annual budget provided in application)</i>	Gross Expense	% Annual Expense	
Social Media/Travel Writing/Blogs/PR	\$ 45,000.00	\$1,500.00	
Paid Media Advertising	\$165,000.00	\$5,500.00	
Design/Production/Photography <i>(print, digital, broadcast)</i>	\$ 48,000.00	\$1,600.00	
KP Visitor Guide & Recreation Map (print/distribution)	\$ 26,000.00	\$ 866.67	
KP Specialty Guide Cards (print/distribution)	\$ 12,000.00	\$ 400.00	
KP National Water Trails Guide (print/distribution)	\$ 15,000.00	\$ 500.00	
Public Relations/FAM Tours/Travel Writers	\$ 5,000.00	\$ 166.67	
Local/Regional Trade Shows	\$ 3,000.00	\$ 100.00	
KP National Water Trails Alliance Program	\$ 12,000.00	\$ 400.00	
Website Management/Mobile App Program	\$ 18,000.00	\$ 600.00	
Equipment (Xerox printer/Pitney Bowes)	\$ 7,000.00	\$ 233.33	
Visitor Info Request (brochure, postage, distribution)	\$ 4,000.00	\$ 133.33	
Total Percentage Contribution to Annual Tourism Marketing	\$360,000.00	\$12,000.00	

Note: does not include charges for direct overhead/operation expenses which are paid for by Kitsap County and other donors. The VKP does not charge, nor receives membership or charge listing fees to any Bainbridge Island businesses or lodging establishments including those featured in VKP produced tourism information brochures, rack cards and other tourism marketing materials.

The VKP will provide the City of Bainbridge Island and its tourism stakeholders with 24/7, year round professional level marketing services and support. Partnering with the VKP on regional marketing efforts enables the City of Bainbridge Island to take advantage and leverage funds provided to the VKP from Kitsap County.

VKP Provides the City of Bainbridge Island and other Bainbridge Island tourism partners with affordable, reliable professional level marketing, public relations, Internet and other marketing services on a year round basis.

The VKP assumes responsibility for expenses and maintenance of a regional website that provides centralized access that provides local, regional, national and international marketing and global access to the Kitsap Peninsula and its communities. *Below is a list of basic, year-round services:*

- Identification of complimentary marketing strategies and activities to support efforts of BI tourism organizations.
- The City of Bainbridge Island is has a dedicated page on the VKP website under communities that includes unique content, photos and "Quick Links" to hoteliers tourism related attractions, local organizations offering tourism information. Includes the City Hall, businesses and lodging organizations and visitor information services.
- Promotion of Bainbridge Island's events, attractions and activities on VKP's popular website stings in the VKP *Calendar of Events, Things-To-Do, Golf, Boating, More, Transportation*, and on other pages and in other sections on the VKP website.
- Advertising and promotion of the City of Bainbridge Island, tourism partners, hotels and events on the VKP Facebook, Twitter, Pinterest, Instagram and other social marketing and mobile media/marketing programs.
- Promotional and some paid advertising support for major Bainbridge Island events and local organizations including the BI Farmer's Market, annual community events, studio tours, wine tastings and other events as identified by BI tourism stakeholders. Includes 200x100 advertisements on VKP website.
- Advertising/media/public relations services to promote City of Bainbridge Island and partner events in VKP social marketing sites, blogs and other digital and print materials as funding permits.
- Feature the City of Bainbridge Island in the 40-60k copies of the *VKP Visitor Guide & Bike-Recreation Map* distributed via Certified Folder on WA State Ferries and throughout visitor centers on the Kitsap & Olympic Peninsulas, at trade shows and events, and in visitor and travel writer packets. The bike map features routes on Bainbridge Island.
- Promotion of Bainbridge Island as a day and overnight destination for the arts, gardens, dining, shopping, craft beverages, agritourism, scenic drives and natural beauty using existing VKP in-house marketing services
- Inclusion of BI in the Kitsap Peninsula National Water Trails Guide, Interactive-online map and website and promotion of BI water trail attractions, services and events.
- Inclusion of the name Bainbridge Island on custom maps used in VKP advertisements, brochures, road and recreational maps, and other print and online materials that promote the Kitsap Peninsula region. This includes a variety of paid print, broadcast and digital ads, Go-WA and other online marketing programs as funding permits.
- Inclusion of the name Bainbridge Island and local attractions in series of VKP Specialty Visitor Info Rack Cards for Museum, Farmer's Markets, Golf, Art Galleries, Kitsap Loves Kids and others. (samples in addendum)
- Distribution of City of Bainbridge Island and tourism partner literature and information to event planners, as part of inquiry and relocation packets, trade shows and at the Port of Seattle UK sales presentations.
- Act as a referral service for the City of Bainbridge Island and tourism stakeholders and provide information about Bainbridge Island lodging, attractions, businesses in response to in person, phone, email, and online requests.
- Advertising and promotion of City of Bainbridge Island venues and event services in VKP online search feature and databases for Meetings, Reunions, Weddings, Retreats, Sports, Boating databases.

ATTACHMENT B

INSURANCE REQUIREMENTS

A. Insurance Term

The Recipient shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Recipient, its agents, representatives, or employees.

B. No Limitation

The Recipient's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Recipient to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance

The Recipient shall obtain insurance of the types and coverage described below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap liability, independent contractors, and personal injury and advertising injury. The City shall be named as an additional insured under the Recipient's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Directors and Officers Liability insurance coverage.

D. Minimum Amounts of Insurance

The Recipient shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

3. Directors and Officers Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

E. Other Insurance Provision

The Recipient's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Recipient's insurance and shall not contribute with it.

F. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

G. Verification of Coverage

Before commencing work and services, the Recipient shall provide to the person identified in Section 9 of the Agreement a Certificate of Insurance evidencing the required insurance. The Recipient shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Recipient before commencement of the work. The City reserves the right to request and receive a certified copy of all required insurance policies.

H. Notice of Cancellation

The Recipient shall provide the City with written notice of any policy cancellation within two (2) business days of their receipt of such notice.

I. Failure to Maintain Insurance

Failure on the part of the Recipient to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five (5) business days' notice to the Recipient to correct the breach, immediately terminate this Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Recipient from the City.

J. City Full Availability of Recipient Limits

If the Recipient maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Recipient, irrespective of whether such limits maintained by the Recipient are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Recipient.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/7/2019

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

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

PRODUCER Liberty Mutual Insurance PO Box 188065 Fairfield, OH 45018	CONTACT NAME: PHONE (A/C, No, Ext): 800-962-7132		FAX (A/C, No): 800-845-3666
	E-MAIL ADDRESS: BusinessService@LibertyMutual.com		
INSURED Visit Kitsap Peninsula 9230 Bayshore Dr NW Ste 101 Silverdale WA 98383		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Ohio Casualty Insurance Company	
		INSURER B: American Fire and Casualty Company	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 46952346

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>		BKO57678082	3/10/2019	3/10/2020	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BAA57678082	3/10/2019	3/10/2020	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

City of Bainbridge Island is Additional Insured if required by written contract or written agreement subject to General Liability Blanket Additional Insured Provision.

CERTIFICATE HOLDER**CANCELLATION**

City of Bainbridge Island 280 Madison Ave. Bainbridge Island WA 98110	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 Michelle Samadzada

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ACORD 25 (2016/03)

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL GENERAL LIABILITY EXTENSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

A. NON-OWNED AIRCRAFT

Under Paragraph **2. Exclusions** of **Section I – Coverage A - Bodily Injury And Property Damage Liability**, exclusion **g. Aircraft, Auto Or Watercraft** does not apply to an aircraft provided:

1. It is not owned by any insured;
2. It is hired, chartered or loaned with a trained paid crew;
3. The pilot in command holds a currently effective certificate, issued by the duly constituted authority of the United States of America or Canada, designating her or him a commercial or airline pilot; and
4. It is not being used to carry persons or property for a charge.

However, the insurance afforded by this provision does not apply if there is available to the insured other valid and collectible insurance, whether primary, excess (other than insurance written to apply specifically in excess of this policy), contingent or on any other basis, that would also apply to the loss covered under this provision.

B. NON-OWNED WATERCRAFT

Under Paragraph **2. Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability**, Subparagraph **(2)** of exclusion **g. Aircraft, Auto Or Watercraft** is replaced by the following:

This exclusion does not apply to:

- (2)** A watercraft you do not own that is:
 - (a)** Less than 52 feet long; and
 - (b)** Not being used to carry persons or property for a charge.

C. PROPERTY DAMAGE LIABILITY – ELEVATORS

1. Under Paragraph **2. Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability**, Subparagraphs **(3)**, **(4)** and **(6)** of exclusion **j. Damage To Property** do not apply if such “property damage” results from the use of elevators. For the purpose of this provision, elevators do not include vehicle lifts. Vehicle lifts are lifts or hoists used in automobile service or repair operations.
2. The following is added to **Section IV – Commercial General Liability Conditions**, Condition **4. Other Insurance**, Paragraph **b. Excess Insurance**:

The insurance afforded by this provision of this endorsement is excess over any property insurance, whether primary, excess, contingent or on any other basis.

D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant’s Property Damage)

If Damage To Premises Rented To You is not otherwise excluded from this Coverage Part:

1. Under Paragraph **2. Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability**:
 - a.** The fourth from the last paragraph of exclusion **j. Damage To Property** is replaced by the following:

Paragraphs **(1)**, **(3)** and **(4)** of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion, smoke, or leakage from an automatic fire protection system) to:

 - (i)** Premises rented to you for a period of 7 or fewer consecutive days; or
 - (ii)** Contents that you rent or lease as part of a premises rental or lease agreement for a period of more than 7 days.

Paragraphs **(1)**, **(3)** and **(4)** of this exclusion do not apply to "property damage" to contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **Section III – Limits of Insurance**.

- b. The last paragraph of subsection **2. Exclusions** is replaced by the following:
Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III – Limits Of Insurance.**
- 2. Paragraph **6.** under **Section III – Limits Of Insurance** is replaced by the following:
 - 6. Subject to Paragraph **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to:
 - a. Any one premise:
 - (1) While rented to you; or
 - (2) While rented to you or temporarily occupied by you with permission of the owner for damage by fire, lightning, explosion, smoke or leakage from automatic protection systems; or
 - b. Contents that you rent or lease as part of a premises rental or lease agreement.
- 3. As regards coverage provided by this provision **D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)** - Paragraph **9.a.** of **Definitions** is replaced with the following:
 - 9.a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with the permission of the owner, or for damage to contents of such premises that are included in your premises rental or lease agreement, is not an "insured contract".

E. MEDICAL PAYMENTS EXTENSION

If **Coverage C Medical Payments** is not otherwise excluded, the Medical Payments provided by this policy are amended as follows:

Under Paragraph **1. Insuring Agreement** of **Section I – Coverage C – Medical Payments**, Subparagraph **(b)** of Paragraph **a.** is replaced by the following:

- (b)** The expenses are incurred and reported within three years of the date of the accident; and

F. EXTENSION OF SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

- 1. Under **Supplementary Payments – Coverages A and B**, Paragraph **1.b.** is replaced by the following:
 - b.** Up to **\$3,000** for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- 2. Paragraph **1.d.** is replaced by the following:
 - d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to **\$500** a day because of time off from work.

G. ADDITIONAL INSUREDS - BY CONTRACT, AGREEMENT OR PERMIT

- 1. Paragraph **2.** under **Section II – Who Is An Insured** is amended to include as an insured any person or organization whom you have agreed to add as an additional insured in a written contract, written agreement or permit. Such person or organization is an additional insured but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by:
 - a.** Your acts or omissions, or the acts or omissions of those acting on your behalf, in the performance of your on going operations for the additional insured that are the subject of the written contract or written agreement provided that the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" is committed, subsequent to the signing of such written contract or written agreement; or

- b. Premises or facilities rented by you or used by you; or
- c. The maintenance, operation or use by you of equipment rented or leased to you by such person or organization; or
- d. Operations performed by you or on your behalf for which the state or political subdivision has issued a permit subject to the following additional provisions:
 - (1) This insurance does not apply to “bodily injury”, “property damage”, or “personal and advertising injury” arising out of the operations performed for the state or political subdivision;
 - (2) This insurance does not apply to “bodily injury” or “property damage” included within the “completed operations hazard”.
 - (3) Insurance applies to premises you own, rent, or control but only with respect to the following hazards:
 - a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - b) The construction, erection, or removal of elevators; or
 - c) The ownership, maintenance, or use of any elevators covered by this insurance.

However:

- 1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to Paragraph 1.a. above, a person’s or organization’s status as an additional insured under this endorsement ends when:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

With respect to Paragraph 1.b. above, a person’s or organization’s status as an additional insured under this endorsement ends when their written contract or written agreement with you for such premises or facilities ends.

With respects to Paragraph 1.c. above, this insurance does not apply to any “occurrence” which takes place after the equipment rental or lease agreement has expired or you have returned such equipment to the lessor.

The insurance provided by this endorsement applies only if the written contract or written agreement is signed prior to the "bodily injury" or "property damage".

We have no duty to defend an additional insured under this endorsement until we receive written notice of a “suit” by the additional insured as required in Paragraph b. of Condition 2. **Duties In the Event Of Occurrence, Offense, Claim Or Suit** under **Section IV – Commercial General Liability Conditions**.

2. With respect to the insurance provided by this endorsement, the following are added to Paragraph 2. **Exclusions under Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This insurance does not apply to:

- a. "Bodily injury" or "property damage" arising from the sole negligence of the additional insured.
- b. "Bodily injury" or "property damage" that occurs prior to you commencing operations at the location where such "bodily injury" or "property damage" occurs.
- c. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

- d. "Bodily injury" or "property damage" occurring after:
 - (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 - (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- e. Any person or organization specifically designated as an additional insured for ongoing operations by a separate **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS** endorsement issued by us and made a part of this policy.

3. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement; or
 - b. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

H. PRIMARY AND NON-CONTRIBUTORY ADDITIONAL INSURED EXTENSION

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

Condition 4. **Other Insurance of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

- a. The following is added to Paragraph a. **Primary Insurance:**

If an additional insured's policy has an Other Insurance provision making its policy excess, and you have agreed in a written contract or written agreement to provide the additional insured coverage on a primary and noncontributory basis, this policy shall be primary and we will not seek contribution from the additional insured's policy for damages we cover.

- b.** The following is added to Paragraph **b. Excess Insurance**:

When a written contract or written agreement, other than a premises lease, facilities rental contract or agreement, an equipment rental or lease contract or agreement, or permit issued by a state or political subdivision between you and an additional insured does not require this insurance to be primary or primary and non-contributory, this insurance is excess over any other insurance for which the additional insured is designated as a Named Insured.

Regardless of the written agreement between you and an additional insured, this insurance is excess over any other insurance whether primary, excess, contingent or on any other basis for which the additional insured has been added as an additional insured on other policies.

I. ADDITIONAL INSUREDS - EXTENDED PROTECTION OF YOUR "LIMITS OF INSURANCE"

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

- 1.** The following is added to Condition **2. Duties In The Event Of Occurrence, Offense, Claim or Suit**:

An additional insured under this endorsement will as soon as practicable:

- a.** Give written notice of an "occurrence" or an offense that may result in a claim or "suit" under this insurance to us;
 - b.** Tender the defense and indemnity of any claim or "suit" to all insurers whom also have insurance available to the additional insured; and
 - c.** Agree to make available any other insurance which the additional insured has for a loss we cover under this Coverage Part.
 - d.** We have no duty to defend or indemnify an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured.
- 2.** The limits of insurance applicable to the additional insured are those specified in a written contract or written agreement or the limits of insurance as stated in the Declarations of this policy and defined in **Section III – Limits of Insurance** of this policy, whichever are less. These limits are inclusive of and not in addition to the limits of insurance available under this policy.

**J. WHO IS AN INSURED - INCIDENTAL MEDICAL ERRORS / MALPRACTICE
WHO IS AN INSURED - FELLOW EMPLOYEE EXTENSION - MANAGEMENT EMPLOYEES**

Paragraph **2.a.(1)** of **Section II - Who Is An Insured** is replaced with the following:

- (1)** "Bodily injury" or "personal and advertising injury":
- (a)** To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b)** To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph **(1) (a)** above;
 - (c)** For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(1) (a)** or **(b)** above; or
 - (d)** Arising out of his or her providing or failing to provide professional health care services. However, if you are not in the business of providing professional health care services or providing professional health care personnel to others, or if coverage for providing professional health care services is not otherwise excluded by separate endorsement, this provision (Paragraph **(d)**) does not apply.

Paragraphs **(a)** and **(b)** above do not apply to “bodily injury” or “personal and advertising injury” caused by an “employee” who is acting in a supervisory capacity for you. Supervisory capacity as used herein means the “employee’s” job responsibilities assigned by you, includes the direct supervision of other “employees” of yours. However, none of these “employees” are insureds for “bodily injury” or “personal and advertising injury” arising out of their willful conduct, which is defined as the purposeful or willful intent to cause “bodily injury” or “personal and advertising injury”, or caused in whole or in part by their intoxication by liquor or controlled substances.

The coverage provided by provision **J.** is excess over any other valid and collectable insurance available to your “employee”.

K. NEWLY FORMED OR ADDITIONALLY ACQUIRED ENTITIES

Paragraph **3.** of **Section II - Who Is An Insured** is replaced by the following:

- 3.** Any organization you newly acquire or form and over which you maintain ownership or majority interest, 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 expiration of the policy period in which the entity was acquired or formed by you;
 - b.** Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c.** Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
 - d.** Records and descriptions of operations must be maintained by the first Named Insured.

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 or qualifies as an insured under this provision.

L. FAILURE TO DISCLOSE HAZARDS AND PRIOR OCCURRENCES

Under **Section IV – Commercial General Liability Conditions**, the following is added to Condition **6. Representations**:

Your failure to disclose all hazards or prior “occurrences” existing as of the inception date of the policy shall not prejudice the coverage afforded by this policy provided such failure to disclose all hazards or prior “occurrences” is not intentional.

M. KNOWLEDGE OF OCCURRENCE, OFFENSE, CLAIM OR SUIT

Under **Section IV – Commercial General Liability Conditions**, the following is added to Condition **2. Duties In The Event of Occurrence, Offense, Claim Or Suit**:

Knowledge of an “occurrence”, offense, claim or “suit” by an agent, servant or “employee” of any insured shall not in itself constitute knowledge of the insured unless an insured listed under Paragraph **1.** of **Section II – Who Is An Insured** or a person who has been designated by them to receive reports of “occurrences”, offenses, claims or “suits” shall have received such notice from the agent, servant or “employee”.

N. LIBERALIZATION CLAUSE

If we revise this Commercial General Liability Extension Endorsement to provide more coverage without additional premium charge, your policy will automatically provide the coverage as of the day the revision is effective in your state.

O. BODILY INJURY REDEFINED

Under **Section V – Definitions**, Definition **3.** is replaced by the following:

- 3.** “Bodily Injury” means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death that results from such physical injury, sickness or disease.

P. EXTENDED PROPERTY DAMAGE

Exclusion a. of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is replaced by the following:

a. Expected Or Intended Injury

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

Q. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US – WHEN REQUIRED IN A CONTRACT OR AGREEMENT WITH YOU

Under **Section IV – Commercial General Liability Conditions**, the following is added to Condition **8. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have against a person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard" provided:

1. You and that person or organization have agreed in writing in a contract or agreement that you waive such rights against that person or organization; and
2. The injury or damage occurs subsequent to the execution of the written contract or written agreement.