

CITY OF FRANKLIN, TENNESSEE PROCUREMENT AGREEMENT

(City of Franklin Contract No. 2017-0100)

THIS PROCUREMENT AGREEMENT ("AGREEMENT") is by and between the City of Franklin, Tennessee ("CITY"), and Thomason and Associates of Nashville, Tennessee ("VENDOR"), who mutually agree as follows:

1. CITY issued on February 16, 2017 Purchasing Office Solicitation No. 2017-012, a request for proposals for downtown historic district listing update and architectural evaluation services ("SOLICITATION").
2. In response to CITY's SOLICITATION, VENDOR submitted a proposal dated March 20, 2017 ("SUBMITTAL"), a copy of excerpts from which is attached hereto as Attachment No. 1 and hereby incorporated by reference as if fully set forth herein.
3. VENDOR included in SUBMITTAL CITY's Standard Procurement Terms and Conditions with VENDOR's contact information inserted ("CITY'S TERMS"), a copy of which is attached hereto as Attachment No. 2 and hereby incorporated by reference as if fully set forth herein.
4. VENDOR has now also submitted two Certificates of Insurance ("CERTIFICATES OF INSURANCE"), copies of which are attached hereto as Attachment No. 3 and hereby incorporated by reference as if fully set forth herein, that meet or exceed CITY's Insurance Requirements as specified in SOLICITATION.
5. If and when insurance coverage documented by CERTIFICATES OF INSURANCE referenced above expires before the expiration of any specified term of award, including any extensions thereto, or the supply, delivery and acceptance of the ordered products and/or services, pursuant to this AGREEMENT, then VENDOR shall immediately suspend work or supply and delivery unless and until it provides one or more unexpired replacement certificates of insurance that indicates the new date(s) of insurance coverage expiration and that meets or exceeds CITY's Insurance Requirements as specified in SOLICITATION.
6. In the event that insurance coverage documented by CERTIFICATES OF INSURANCE referenced above is materially modified or canceled before the expiration of any specified term of award, including any extensions thereto, or the supply, delivery and acceptance of the ordered products and/or services, pursuant to this AGREEMENT, then VENDOR shall, immediately upon learning of any such material modification or cancellation, suspend work or supply and delivery and shall, within three (3) calendar days of such learning, notify CITY of any such material modification or cancellation.
7. VENDOR agrees to impose CITY's insurance requirements upon any subcontractors it utilizes for this procurement. Use of any particular subcontractor for this procurement shall have been approved by CITY in advance of that subcontractor commencing work for this procurement.

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8. VENDOR included in SUBMITTAL CITY's Indemnification Agreement, executed for VENDOR ("INDEMNIFICATION AGREEMENT"), a copy of which is attached hereto as Attachment No. 4 and hereby incorporated by reference as if fully set forth herein.
9. CITY and VENDOR hereby agree to modify the scope of work for VENDOR in the following ways:
 - a. The updated nomination prepared by VENDOR pursuant to SOLICITATION shall be submitted by VENDOR to the Tennessee Historical Commission either by July 1, 2017 if the item is to be considered at the September, 2017 meeting of the State Review Board, or by the Commission's September, 2017 deadline if the item is to be considered at the January, 2018 meeting of the State Review Board.
 - b. If any edits and/or modifications to the updated nomination prepared by VENDOR pursuant to SOLICITATION are requested by the State Review Board at its meeting in September, 2017, then VENDOR shall revise said updated nomination accordingly and shall submit the revised updated nomination for National Park Service approval, all prior to the September 30, 2017 grant invoice deadline.
 - c. If any edits and/or modifications to the updated nomination prepared by VENDOR pursuant to SOLICITATION are requested by the State Review Board at its meeting in January, 2018, then VENDOR shall revise said updated nomination accordingly and shall submit the revised updated nomination for National Park Service approval, all within thirty (30) calendar days of the January, 2018 meeting of the State Review Board.
10. CITY awarded on date of execution of this AGREEMENT to VENDOR the purchase of downtown historic district listing update and architectural evaluation services pursuant to this AGREEMENT, SOLICITATION and SUBMITTAL.
11. In the event of a conflict between the following documents, the order of precedence shall be as follows: (a) this AGREEMENT; (b) CITY'S TERMS; (c) INDEMNIFICATION AGREEMENT; (d) SOLICITATION; and (e) SUBMITTAL.

EXECUTED THIS 8 DAY OF June 2017

For VENDOR:



(signature of VENDOR's authorized representative)

TITLE: Principal

For CITY:



(signature of CITY's authorized representative)

TITLE: City Administrator

Approved as to Form:



Attorney for City of Franklin

CITY OF FRANKLIN, TENNESSEE
PROCUREMENT AGREEMENT

(City of Franklin Contract No. 2017-0100)

Attachment No. 1

Excerpts from SUBMITTAL

Proposal Submittal Form

a form required of Bidders and Proposers on purchases of supplies, materials, equipment and services for the

City of Franklin, Tennessee

Purchasing Office Solicitation No.: 2017-012

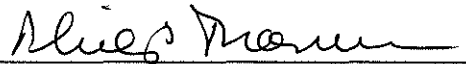
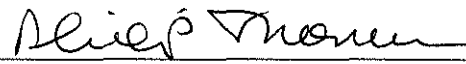
Vendor's name, street address, and mailing address:	<u>Thomason and Associates</u> <u>118 Kenner Ave.</u> <u>P.O. Box 121225</u> <u>Nashville, TN 37212</u>
Vendor's contact person's name (printed), title, telephone number and e-mail address:	<u>Philip Thomason/Principal</u> <u>615-385-4960</u> <u>thomason@bellsouth.net</u>
Does the proposer take any exceptions to the City's procurement solicitation?	<input type="checkbox"/> Yes, see enclosed. <input checked="" type="checkbox"/> No, proposer takes no exceptions.
Are exceptions, if any, to the City's procurement solicitation listed, described, compared to the City's intention as expressed and implied by the City's solicitation documents, and submitted?	<input type="checkbox"/> Yes, see enclosed. <input checked="" type="checkbox"/> No, proposer takes no exceptions.
Total quoted proposal price for project (not to exceed \$10,000):	\$ <u>9,823.00</u>
Estimated time of completion of project (to be completed and invoiced no later than September 30, 2017):	<u>120</u> days after receipt of order.
Are the City's preferred payment terms (net 30 days from date of delivery or date of invoice, whichever is later) acceptable to proposer?	<input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No, proposer requests the following payment terms: <u>Milestones</u> .
Last date (no sooner than May 31, 2017) that proposal and associated pricing is valid and may be accepted by the City:	<u>June 1, 2017</u>
Method of payment – The City's default method of payment is by electronic means, either by direct deposit (i.e., "ACH" or "Electronic Funds Transfer"), or by Visa credit card, rather than by conventional check. Which electronic payment method would the proposer prefer?	<input checked="" type="checkbox"/> ACH or Electronic Funds Transfer. <input type="checkbox"/> Visa credit card.

Proposal Submittal Form

a form required of Bidders and Proposers on purchases of supplies, materials, equipment and services for the

City of Franklin, Tennessee

Purchasing Office Solicitation No.: 2017-012

Proposer's name:	<u>Thomason and Associates</u>
Are the following components included with this Proposal Submittal Form in the submittal? <ul style="list-style-type: none">Detailed vendor-supplied description of proposed product(s) and/or service(s);Identification, listing and description of any exceptions to the procurement solicitation;Contact information for required references (see Request for Proposals);City of Franklin Standard Procurement Terms and Conditions, with the vendor's contact information inserted;Vendor's proposed agreement or contract, if any, the terms and conditions of which shall be not inconsistent with the City's Standard Procurement Terms and Conditions;City of Franklin Affidavit of Non-Collusion, executed in full; andCity of Franklin Affidavit of Title VI Compliance, executed in full.	<input checked="" type="checkbox"/> Yes, see enclosed. <input type="checkbox"/> No, proposer chooses <u>not</u> to include all of these components (WARNING: doing so may cause the City to deem the proposal non-responsive).
Acknowledge any and all issued addenda to this solicitation: (Prior to submitting its proposal, it is the responsibility of each potential proposer to determine whether any addenda to this procurement solicitation have in fact been issued by the City.)	<input type="checkbox"/> Addendum No. _____ <input type="checkbox"/> Addenda Nos. _____ <input checked="" type="checkbox"/> No addenda.
Subscription and affirmation of proposer's authorized representative: By submission of this proposal, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each proposer is not on the list created pursuant to Tennessee Code Annotated § 12-12-106.	 (signature)
Signature of proposer's authorized representative: I have obtained and read, and do understand and consent, to all instructions, terms and conditions, including those imposed by reference, which apply to this procurement solicitation and compliance with which is required as a condition precedent to consideration of the proposal submitted herewith.	 (signature)
Title of proposer's authorized representative:	<u>Principal</u>
Date of signatures:	<u>3/20/2017</u>



PROPOSAL TO
CITY OF
FRANKLIN, TENNESSEE



DOWNTOWN HISTORIC
DISTRICT LISTING
UPDATE

AND

ARCHITECTURAL
EVALUATION SERVICES



THOMASON AND ASSOCIATES
NASHVILLE, TENNESSEE



MARCH, 2017

SECTION A – EXPERIENCE AND QUALIFICATIONS

1. Firm Overview

Contact Information

Philip Thomason, Principal
Thomason and Associates
Post Office Box 121225
Nashville, Tennessee 37212
615 385 4960 (telephone)
615 385 4960 (facsimile)
Thomason@bellsouth.net
www.thomasonandassociates.com

Thomason and Associates was formed in 1982 and is a nationally known historic preservation consulting firm located in Nashville, Tennessee. The firm is an official Small Business concern and operates as a Sole Proprietorship devoting itself exclusively to historic preservation planning projects. It employs three full-time and one part-time preservation professionals, and has associated relationships with landscape architecture companies, archaeologists, and historic architects.

2. Firm Experience

Over the past 35 years Thomason and Associates has completed more than 800 projects that include cultural resource surveys, preservation planning studies, tax act consultation, National Register nominations, and historic district design review guidelines and ordinances. Clients of the firm include real estate developers, small business concerns, non-profit organizations, city and state governments, and various federal agencies. The firm's Principal, Philip Thomason, as well as assistants Andra Martens, Brittany McKee and Rebecca Hightower, meet the *Secretary of the Interior's Historic Preservation Professionals Qualifications*. Since its formation, Thomason and Associates has worked with communities across the country on a wide variety of historic preservation projects. These include the preparation and revisions to historic district ordinances, overall community historic preservation plans, and the completion of sixty design review guideline manuals prepared for both residential and commercial areas in large and small communities.

The firm has extensive experience in architectural survey and evaluation and the preparation of historic contexts for National Register nominations. The firm regularly conducts cultural resource surveys for municipalities and state and federal agencies as part of National Register assessments of eligibility. Our surveys in recent years have included properties fifty years old or older and this time period now extends into the mid-1960s. Recent projects include cultural resource surveys and evaluations of National Register eligibility in communities as diverse as Vinton, Iowa, New Britain, Connecticut, and Aberdeen, Washington.

Current similar projects include an architectural survey and National Register nomination for the Fitzgerald Historic District in Fort Smith, Arkansas, evaluations of historic buildings at Fort Campbell, Kentucky and an architectural and historical survey of State Route 61 in Union County, Tennessee.

Representative Survey and National Register Evaluation Projects

2016 – Knoxville Tennessee, Mid-Century Modern Survey and National Register Assessment, 1936-1966

The firm recently completed a survey and National Register assessment for the city of Knoxville, Tennessee.

2016 – Jonesborough Historic District National Register Nomination Update and Boundary Increase, Jonesborough, Tennessee

In 2016, the firm updated the 1966 historic district nomination for the community through additional research, historic context development and expansion of boundaries to include an additional 150 properties.

2016 – Campbell County, Tennessee, Architectural Survey

In 2016, the firm conducted a survey of over 400 properties in Campbell County, Tennessee. This included both rural areas and communities such as LaFollette and Jellico.

2015 – Tennessee Valley Authority Hydroelectric System Survey and National Register Nominations

The firm completed a survey and National Register context of TVA's hydroelectric projects in the Southeast. This included the recordation of twenty-five dams, powerhouses and associated buildings.

2014 – Cultural Resource Survey and National Register Nominations, Brownsville, Tennessee.

In 2014, Thomason and Associates prepared National Register nominations for the expansion of an existing historic district and three new districts. These districts contained over 200 properties and included residential and commercial buildings.

2012 - Bristol Warehouse Historic District, Bristol, Virginia

Thomason and Associates prepared a National Register nomination for the Bristol Warehouse District. This included the survey of properties in the downtown area and the completion of the nomination of a dozen properties in the city's historic warehouse area.

2011 - Central Vinton Neighborhood Historic District Nomination, Vinton, Iowa

In 2011, the firm completed a survey of over 300 properties and prepared the National Register nomination for the Central Vinton Neighborhood Historic District.

2009 – Survey and Updated Nomination for the Frank Lloyd Wright-Prairie School of Architecture Historic District in Oak Park, Illinois.

Thomason and Associates assisted the village of Oak Park in 2009 to update and expand the district's National Register of Historic Places listing by completing survey forms and writing descriptions for 1,200 properties and updating the district description and statement of significance.

2004 - 2006 Midtown Memphis Cultural Resources Survey, Memphis, Tennessee

From 2004 to 2006, the firm worked with the Memphis Landmarks Commission to survey over 4,000 buildings in the Midtown section of Memphis. Surveyed neighborhoods included Central Gardens, Chickasaw Gardens and Evergreen. A survey report provided the Landmarks Commission with recommendations for National Register-eligible historic districts and individual properties.

2005, Survey and National Register Nomination, Euclid Avenue Historic District, Bristol, Virginia

The Euclid Avenue neighborhood of Bristol, Virginia contains almost 500 residences built between 1890 and 1955. The area contains a wide variety of house forms and styles from the mid-20th century. The firm completed a National Register nomination for this neighborhood.

3. Key Personnel

Project Director – Phil Thomason, Principal of the firm, will be responsible for overseeing the survey and consulting with the City of Franklin's Planning Staff and the staff of the Tennessee Historical Commission.

Project Assistants - Andra Martens and Brittany McKee will provide assistance in the form of architectural survey, historical research and preparing sections of the context narrative.

The point of contact for this project will be Principal Phil Thomason, 615-385-4960 (phone) and Thomason@bellsouth.net (email).

Resumes for these three individuals accompany this proposal.

4. Availability

The Franklin survey and nomination update will be managed by Principal Phil Thomason with assistance from Andra Martens and Brittany McKee. The firm regularly completes projects of this scope and scale concurrently with four to five other projects. The firm has the resources and availability necessary to complete the scope of work within the time frame and budget.

5. Age of Firm

Thomason and Associates was formed in 1982 and it is one of the oldest historic preservation planning firms in the country. Since it was founded the firm has completed cultural resource surveys and National Register nominations in over thirty states across the country.

6. Past Success

Thomason and Associates consistently completes its projects on-time and on-budget and has many repeat clients such as the National Park Service, Department of Energy, Tennessee Department of Transportation and Tennessee Valley Authority. Please contact the references provided for additional information on the quality of our work.

7. Similar Projects and References

2016 - Jonesborough Historic District National Register Nomination Update, Jonesborough, Tennessee

Jonesborough and Franklin are considered two of Tennessee's most architecturally significant communities and preservation success stories. In 2016, the firm re-evaluated Jonesborough's historic district and updated its National Register nomination to include properties built to 1966. This resulted in an expansion of the historic district boundary to include an additional 150 properties.

Client: Town of Jonesborough, Tennessee
123 Boone Street
Jonesborough, TN 37659
(423-416-4201)
Contact: Bill Kennedy, Chair Historic Zoning Commission
wekennedymdl@gmail.com

2016 – Knoxville Tennessee, Mid-Century Modern Survey and National Register Assessment, 1936-1966

Knoxville, Tennessee contains the largest collection of mid-20th century modern architecture in the state. During the 1930s the architects of the Tennessee Valley Authority (TVA) utilized modernist designs for the agency's facilities and this influence spread to residential and commercial architecture in the region. Thomason and Associates was hired by the City of Knoxville to update the city's survey to 1966 and identify subdivisions and individual properties from this period that met National Register criteria. The resulting survey report included historic contexts, architectural descriptions and recommendations for National Register eligibility.

Client: Knox County Metro Planning Commission
Suite 403, City-County Building.
400 Main Street
Knoxville, TN 37902
(865-215-2500)
Contact: Kay Graybeal, City Planner
kaye.graybeal@knoxmpc.org

Tennessee Valley Authority Hydroelectric System Survey and National Register Multiple Property Documentation Form, Alabama, Georgia, Kentucky, North Carolina and Tennessee

This project involved research and analysis of the Tennessee Valley Authority (TVA) and its hydroelectric facilities in five states. The majority of TVA's dams, powerhouses and other facilities were built between 1933 and 1960 and reflect the Modernist movement of the period. Noted architects such as Roland Wank and Alfred and Jane Clauss worked with TVA and provided designs that are still influential today. Thomason and Associates prepared an overall historic context for TVA as well as individual nominations for 25 hydroelectric facilities.

Client: Tennessee Valley Authority
400 W. Summit Hill Dr.
Knoxville, TN 37902
(865-632-6461)
Contact: Pat Ezzell, TVA Historian
pbezzell@tva.gov

Fort Smith, Arkansas

Fort Smith Historic Preservation Plans and National Register Nominations

In 2010, the firm completed the *Fort Smith Citywide Historic Preservation Plan*. This effort included the driving of all streets in the city and the identification of properties built to 1960 which met National Register criteria. Since the completion of this plan the firm has assisted the city in preparing National Register Historic District nominations for the "Belle Grove Historic District Update," the "Fishback Neighborhood Historic District," the "Fishback Neighborhood Extension Historic District" and the "Fitzgerald Historic District."

Client: City of Fort Smith
Planning Department
623 Garrison Avenue
Fort Smith, AR 72902
Contact: Maggie Rice, City Planner
501-785-2801
mrice@fortsmithar.gov

8. Conflict of Interest

No employee of Thomason and Associates has any conflict of interest with the City of Franklin. No spouses or other relatives are related to anyone at the firm.

9. Financial Stability

Thomason and Associates has been in business for 35 years and has revenue of between \$300k and \$400k annually. The firm has accounts with Suntrust Bank and can provide a business point of contact if requested.

10. Insurance

The firm carries Commercial General Liability, Automobile Liability, Worker's Compensation, Employer's Liability and Professional Liability insurance which meets or exceeds the City of Franklin's requirements. If awarded the project, Certificates of Insurance will be forwarded to the city.

SECTION B – SPECIFIC EXPERIENCE TO THE PROJECT

The firm is especially qualified to complete the survey and update of the Franklin Historic District National Register Nomination Form. For almost thirty years the company has completed projects in Franklin and Williamson County. These projects include:

- 1988 - "Multiple Resources of Williamson County, Tennessee National Register Nomination"
In 1987 and 1988 the firm completed National Register nominations for over one hundred properties in Franklin and Williamson County.
- 1991 - "Franklin Design Guideline Manual, Franklin Tennessee."
The firm prepared the first set of design guidelines for the Franklin Historic District in 1991.
- 1999 - "Adams Street Historic District, Franklin, Tennessee"
This nomination was written in 1999 to include the Adams Street Historic District in the National Register.
- 1999 – "A Re-Survey of Williamson County, Tennessee"
This resurvey included properties in the county as well as the Franklin Historic District. The National Register nomination for the Franklin Historic District was updated and a comprehensive list of contributing and non-contributing buildings was provided to the Williamson County Heritage Foundation.
- 2004 – "Franklin Battlefield Preservation Plan"
In association with The Walker Collaborative, the firm conducted historical research and review of properties for the Franklin Battlefield Preservation Plan.
- 2004 - "Franklin Design Guideline Manual Update"
The firm prepared an update to the original set of design guidelines for the Franklin Historic District in 2004.
- 2011 – "Franklin City Cemetery and Rest Haven Cemetery National Register Nominations"
Nominations were completed for these two historic cemeteries for the City of Franklin.
- 1985 to 2015 – "Tax Certification Consultation"
The firm consulted with the property owners on the rehabilitation of six buildings in the Franklin Historic District to meet the standards for the federal historic tax credit.
- Franklin Post Office
 - Dotson Building, Franklin, Tennessee
 - Gordon-Palmer House, Franklin, Tennessee
 - Standard Farm Building, Franklin, Tennessee
 - 214 Second Street, Franklin, Tennessee
 - 345 Main Street, Franklin, Tennessee

In addition to its familiarity with the Franklin Historic District, the firm also has extensive experience with updating National Register historic district nominations. Updates have been completed for the following:

- Jonesborough Historic District, Jonesborough, Tennessee
- Frank Lloyd Wright-Prairie School of Architecture Historic District, Oak Park, Illinois
- Belle Grove Historic District, Fort Smith, Arkansas
- College Hill Historic District, Brownsville, Tennessee

SECTION C – PROJECT UNDERSTANDING

The purpose of this project is to provide an update to the existing National Register nomination listing for the area known as the “Franklin Historic District” through research and evaluation methods and to evaluate and document certain historic structures for the purpose of gathering information that may be used later to expand the boundaries of the National Register-listed Franklin Historic District and/or local historic district overlay.

The City’s goals and objectives for this project include:

1. Undertake the research, photography, and writing of a National Register nomination that provides updated information on structures within the current boundaries of the Franklin Historic District. This includes identification and documentation of additional contributing properties based on an expanded period of significance for the district. Addressing and infill updates will also be included. The end product shall be provided by the consultant to the City of Franklin and to the Tennessee Historical Commission (THC) in the form of Additional Documentation, Boundary Increase/Decrease, and/or a new National Register nomination as deemed acceptable by the THC and the National Park Service (NPS) in accordance with National Register program requirements.
2. Undertake the architectural evaluation and documentation of structures located on the street fronting Columbia Avenue and adjacent parcels between the Five Points area and the Carter House/Carter Hill Battlefield Park property for the purposes of gathering additional information that may be used to expand the boundaries of the National Register-listed Franklin Historic District and/or local historic district overlay. The architectural evaluation information shall be provided by the Consultant to the City of Franklin and to the THC in the form of completed state architectural survey forms and digital photography in a format deemed acceptable by the THC.

Thomason and Associates understands the purpose of this project and will provide all of the research and field work necessary to achieve these goals. The firm’s familiarity with the Franklin Historic District and Columbia Avenue Corridor as well as its previous experience with working with the THC on National Register nomination updates will ensure the successful completion of this project for the City of Franklin. This update will provide the City of Franklin with an updated list of contributing and non-contributing buildings, provide residential and commercial historic contexts to 1967 and recommend boundary revisions as warranted.

SECTION D – METHODOLOGY AND PROJECT APPROACH

Thomason and Associates will complete the scope of work for the update to the Franklin Historic District and evaluation of the Columbia Avenue Corridor in the following manner:

- Completion of research, photography, and writing of a National Register nomination that provides updated information on structures within the current boundaries of the Franklin Historic District. This includes identification and documentation of additional contributing properties based on an expanded period of significance for the district. This period is expected to be extended to 1967 in accordance with the National Register's fifty-year rule.
- Updating all property information in the district including addresses, owners and mapping.
- Completion of relevant streetscapes and individual property photography in digital format in keeping with National Register criteria.
- Revisions to the Franklin Historic District National Register nomination in the form of Additional Documentation, Boundary Increase/Decrease, and/or a new National Register nomination as deemed acceptable by the THC and the NPS in accordance with National Register program requirements.
- The Consultant shall attend one regular monthly meeting of the Franklin Historic Zoning Commission (FHZC) to answer any questions about the updated nomination.
- The Consultant will work with the THC staff to forward the updated nomination to the State Review Board for consideration and will attend the September, 2017 State Review Board meeting to represent the nomination and will amend the updated nomination as necessary under the advisement of the State Review Board and the THC staff, and forward the updated nomination to the NPS as necessary for final consideration.
- The Consultant will undertake the architectural evaluation and documentation of structures located along Columbia Avenue between the Five Points area and the Carter House/Carter Hill Battlefield Park property for the purposes of gathering additional information that may be used to expand the boundaries of the National Register-listed Franklin Historic District and/or local historic district overlay. The architectural evaluation information shall be provided by the Consultant to the City of Franklin and to the THC in the form of completed state survey forms and digital photography in a format deemed acceptable by the State.
- A particular focus of the update is to identify accessory buildings such as garages, stables, sheds and other outbuildings which would be considered contributing to the historic district.
- The Consultant will utilize Sanborn Fire Insurance Maps of Franklin which were updated to 1940 to assist in the dating of buildings and outbuildings.

- The Consultant will identify contributing and non-contributing properties relevant to the National Flood Insurance Program (NFIP) and which are within the floodplain of the Harpeth River and its tributaries. This information will be provided in a separate deliverable to the City of Franklin.
- An evaluation will be completed of the potential expansion of the local Historic Preservation Overlay district to include contributing street-fronting and adjacent parcels between the Five Points area and the Carter House on Columbia Avenue. This architectural evaluation will assist the City to determine if this section of Columbia Avenue possesses sufficient integrity to be approved as a boundary expansion of the Franklin Historic District listing or if it would be better suited for consideration as a new local overlay district only.

Deliverables

At the conclusion of the project the Consultant will provide the following deliverables:

- An updated National Register nomination form for the Franklin Historic District. This will include a revised period of significance, historic context, and a list of properties built after 1949 which are contributing to the district. This update will be in a format as agreed upon by the City of Franklin and Tennessee Historical Commission. The nomination will include all maps, owner information and digital photographs in accordance with National Register regulations.
- Tennessee Historic Inventory Forms for all properties surveyed along with digital photographs and mapping requirements.
- A Survey Report which provides:
 - A summary of the project, its purpose and conclusions.
 - An overview of the architectural character and context of Franklin from 1949 to 1967 and a list of contributing properties from this period.
 - Identification of significant Mid-20th century storefronts which should warrant consideration for preservation.
 - Recommendations for the expansion of the Franklin Historic District or a separate district along Columbia Avenue.
 - Recommendations for possible expansion of the Franklin Overlay District and actions by the Franklin Historic Zoning Commission.
 - Recommendations for increasing awareness and appreciation of the Franklin Historic District's architectural and historic resources including Mid-20th century buildings and storefronts.
 - A list of properties which are within the Harpeth River floodplain and subject to the National Flood Insurance program.

Proposed Fee

Thomason and Associates will complete this scope of work for a fee not to exceed nine thousand eight hundred twenty-three dollars (\$9,823.00). The majority of the fee is for labor with the only anticipated expenses being mileage from Nashville to Franklin. No overnight stays will be required.

Payment Milestones:

Completion of the field work -	25% or \$2,455.75
Submittal of the Draft updated Franklin Historic District National Register nomination –	25% or \$2,455.75
Submittal of the Final updated Franklin Historic District National Register nomination –	25% or \$2,455.75
Submittal of the Survey Report –	15% or \$1,473.45
Presentation at the 2017 State Review Board Meeting -	10% or \$982.30

SECTION E – PROJECT SCHEDULE

April, 2017:	Notice to Proceed.
May-June, 2017:	Field Work, Historical Research, Meetings with THC, City of Franklin Planning Staff and Franklin Historic Zoning Commission.
June 15, 2017:	By this date, completion and submittal of Draft Updated Franklin Historic District National Register Nomination Form.
July 15, 2017:	By this date receipt of comments.
August 1, 2017:	By this date submittal of the Final Updated Franklin Historic District National Register Nomination Form and Survey Report.
September, 2017:	Presentation of the Updated Franklin Historic District National Register Nomination to the State Review Board.

SECTION F – PROJECT FEE

Thomason and Associates will complete this scope of work for a fee not to exceed nine thousand eight hundred twenty three dollars (\$9,823.00). This includes all labor and expenses to be incurred on the project.

Project Labor	Hours	Hourly Rate	Hourly Total	Overhead @ 125%	Profit @ 10%	Total
<i>Project Director</i> Thomason	42	\$50	\$2,100.00	\$2,625.00	\$210.00	\$4,935.00
<i>Project Assistants</i> McKee and Martens	80	\$25	\$2,000.00	\$2,500.00	\$200.00	\$4,700.00
Total						\$9,635.00

Project Expenses	Description	Total
Mileage	400 @ .47	\$188.00
Total Project Expenses		\$188.00

Total Project Labor	\$9,635.00
Total Project Expenses	\$188.00
Total Project Cost	\$9,823.00

PROJECT TEAM

PHILIP THOMASON Principal



A native of Georgia and Kentucky, Philip Thomason grew up in historic neighborhoods and became convinced of their intrinsic value. Upon completion of his B.A., he moved to Nashville, Tennessee, to pursue a career in public radio. In 1978, he entered the graduate program in Historic Preservation at the University of Middle Tennessee. After completing the program, he worked as a planner with Building Conservation Technology Inc., from 1980 until 1982, when he founded Thomason and Associates.

During the following decades, Thomason's work and his firm have reflected the expansion of the historic preservation field. Focusing first on National Register nominations and cultural resource surveys, he soon branched out into preservation plans, design guidelines for towns and communities, and environmental assessments. Initially focused on the Southeast, his work expanded throughout the country. Along the way he developed particular expertise in military architecture. His depth of experience gives him the ability to evaluate the significance and history of a single property, and at the same time, to place it in its overall regional context. A skilled speaker, he helps his clients identify and communicate the value of their historic resources, bringing to bear his knowledge of preservation trends at the national level.

Affiliations:

Preservation Action,
Board of Directors

National Alliance of Preservation
Commissions,
Board

Tennessee Preservation Trust,
Board

Kenner Manor
Neighborhood Association,
Board

National Trust for Historic
Preservation

Historic Nashville, Inc.

Vernacular Architectural Forum

Society of Commercial
Archeology

Preserving the Recent Past

Trail of Tears Association

Education:

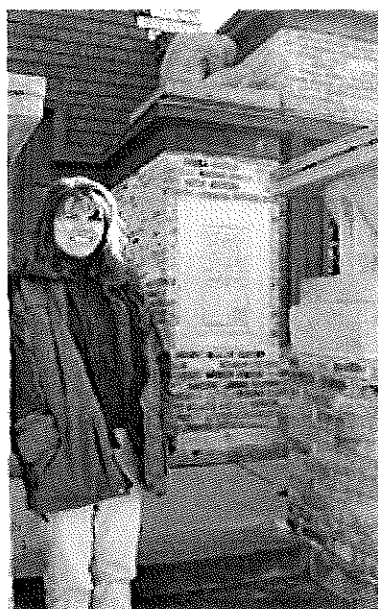
M.A. Historic
Preservation,
University of Middle
Tennessee, 1981

B.A., Knox College,
1975

www.thomasonandassociates.com

PROJECT TEAM

ANDRA MARTENS Preservation Planner



Martens provides project management and oversight for a variety of Thomason and Associates' historic survey and National Register projects.

Her graduate studies emphasized historic preservation and state and local history through oral history projects with the Albert Gore Research Center and the Land Trust for Tennessee, analysis of sprawl and changing land use patterns, and a graduate assistantship with the Center for Popular Music organizing a collection of Tennessee-related sheet music and a multi-media collection of rural, Southern-American music and oral history. Her agriculture- and equine-related historical research developed into her Master's thesis, "Horse Race: Class and Gender: American Cultural Identity through Horse Racing."

As Historic Preservation Planner with the East Tennessee Development District, Martens completed National Register nominations varying from the one-doctor Fred O. Stone Maternity Hospital to the historic Claiborne County Jail.

Martens is also the author of Tennessee's Arabian Horseracing Heritage, published as part of Arcadia Publishing's "Images of America" series.

Education:

M.A. Public History,
Historic Preservation,
Middle
Tennessee State
University, 2005

B.M. Commercial Music,
Jazz Composition/
Arranging,
University of
Memphis, 1991

www.thomasonandassociates.com

PROJECT TEAM

BRITTANY MCKEE

Architectural Historian



Brittany McKee developed a passion for historic buildings while growing up in the upstate of South Carolina. After studying History at the College of Charleston, McKee earned a Master's degree in Historic Preservation from Clemson University. Her graduate studies emphasized documentation of historic structures, material conservation, and the evolution of building technology. While in graduate school, McKee contributed to existing conditions reports and treatment management plans for structures affiliated with various regional organizations including the Historic Charleston Foundation and the South Carolina State Park Service. McKee also participated in the Clemson Architectural Foundation's Genoa Field School at the Charles E. Daniel Center for Building Research and Urban Studies in Genoa, Italy.

After earning her degree in Historic Preservation, McKee worked as a development associate at a conservation organization and served as a curatorial intern at the Spartanburg County Historical Association where she assisted in the foundation of a collections management policy.

Since joining Thomason and Associates in 2015, McKee has contributed to various projects including National Register nominations, cultural resource surveys, and Section 106 review projects.

Education:

M.S. Historic Preservation,
Clemson University,
2014

B.A. History,
College of Charleston,
2011

Affiliations:

Historic Nashville, Inc.



**PHILIP J.M. THOMASON
PRINCIPAL/THOMASON AND ASSOCIATES**

EXPERIENCE

1982 - 2017 Historic Preservation Consultant - Thomason and Associates, Nashville, Tennessee

Historic Preservation Plans, Ordinances and Design Review Guidelines

Authored plans, ordinances and design review guidelines for fifty communities throughout the country including Pittsburgh, Cary, North Carolina, Little Rock, Arkansas, New Britain, Connecticut and Salt Lake City.

Tax Certification Consultant

Provided assistance, research and consultation necessary for projects utilizing the 20% Investment Tax Credit. This included involvement in the certification of fifty historic projects throughout the country.

Military Installation Cultural Resource Consultant

Responsible for the analysis and evaluation of cultural resources at fifteen military bases. Evaluation includes the preparation of preservation plans, National Register nominations, and Programmatic Agreements. Consulting services provided to the US Navy at Memphis NAS and Corpus Christi NAS; US Air Force at Randolph AFB, Scott AFB, and Warner Robins AFB; and US Army at Fort Benning and Fort McPherson.

National Register Nominations

Author of National Register Nominations in 26 states across the country. Nominations have included individual properties, historic districts and Multiple Property Documentation Forms for Route 66 and the Trail of Tears. Nominations prepared have resulted in over 12,000 structures placed on the National Register.

Cultural Resource Surveys

Directed surveys of historic buildings in cities such as Centralia, Washington; Oak Park, Illinois and; Miami, Florida. Inventoried Properties total over 30,000 structures.

Historic Structure Reports

Authored or co-authored historic structure reports recommending proper restoration techniques. Properties include the Benham Theatre, Benham, Kentucky; Christian County Courthouse, Hopkinsville, Kentucky, and; Sapphire Inn, Sapphire Valley, North Carolina.

Historic Survey Publications

Responsible for writing, research and layout for historic survey publications. These include survey publications for Hardin and Pulaski Counties, Kentucky; McCormick, Greenville and Spartanburg, South Carolina.

Section 106 Review and Mitigation

Conducted research and report writing for Section 106 mitigation including the Burkville Plantation Historic District, Lowdes County, Alabama, for the U.S. Army Corps of Engineers; Kentucky River Survey and Analysis for the Tennessee Valley Authority; Memphis I-40/240 Interchange and Route 840 for the Tennessee Department of Transportation.

1980-1982, Preservation Planner - Building Conservation Technology, Inc., Nashville, Tennessee.

Projects included:

Historian, Columbia Reservoir Historic Resources Survey
Author, Murfreesboro, Tennessee--Plan for Revitalization
Historian/Principle Author, Rugby Master Plan for the U.S. Army Corps of Engineers.

MEMBERSHIP

Board of Directors, Preservation Action, 1991-2008
Board of Directors, Tennessee Heritage Alliance, 1983-1993.
Board of Directors, Historic Nashville, Inc. 1982-1987/1992-1993.
National Trust for Historic Preservation

EDUCATION

Bachelor of Arts - Knox College, Galesburg, Illinois, 1975
Master of Arts - History, Emphasis on Historic Preservation, Middle Tennessee State University, 1981

AWARDS

First Award for Urban Planning and Design for contributions to the Rugby Master Plan. Awarded by
Progressive Architecture, 1986
Certificate of Merit - Historic Nashville Inc., 1986
Certificates of Merit - Tennessee Historical Commission, 1988, 1990
“Achievement in Comprehensive Planning Award” – Fort Smith, Arkansas Citywide Historic Preservation Plan. Awarded by the
Arkansas Chapter, American Planning Association, 2009
“Special Citation for Achievement in Public Policy” - Little Rock Citywide Preservation Plan. Awarded by the Historic Preservation
Alliance of Arkansas, 2011
“Honorable Mention, Comprehensive Planning” – Cary, North Carolina Historic Preservation Master Plan. Awarded by the North
Carolina Chapter of the American Planning Association, 2011



**ANDRA KOWALCZYK MARTENS
PRESERVATION PLANNER/THOMASON AND ASSOCIATES**

EXPERIENCE

2007-2017 Preservation Planner - Thomason and Associates, Nashville, Tennessee

Historical and Architectural Surveys/Reports

Assisted in the survey, research and preparation of the Mid-Town Survey Report Memphis Landmarks.

2005-2006 Historic Preservation/Housing Planner – East Tennessee Development District

National Register Nominations

Historical research, photography, and writing for National Register nominations for the following: Bethel Cemetery, Roane County, Tennessee; Fred O. Stone Maternity Hospital, Roane County, Tennessee; Leeper Farm, Hamblen County, Tennessee; Claiborne County Jail, Tennessee; Post Oak Springs Christian Church, Roane County, Tennessee.

Technical Assistance

Provided assistance and/or performed projects of preservation and housing grant applications, Section 106 review, tax credit information, Secretary of Interior standards of preservation guidelines, historic district zoning evaluation.

2004-2005 USDA Farm Service Agency, Murfreesboro, Tennessee

Mapping & Documentation

Evaluate agricultural tracts to create digital overlay of characteristics, using ArcView and ArcMap software. Certify & QC projects; trained and assisted county offices in use of digital maps.

2003-2004 Center for Popular Music Graduate Assistant, Middle Tennessee State University, Murfreesboro, Tennessee.

Cataloged iconographic collection, Tennessee sheet music collection, and multi-media audio/video collection of rural Southern American music; created finding aids for all the above.

2002-2005 Public History, Middle Tennessee State University, Murfreesboro, Tennessee, special projects:

Master's Thesis: "Horse Race: Class and Gender: American Cultural Identity Through Horseracing," including historical research and oral history interviews.

2005, National Register nomination: Alexander Smith House, originally a rural homestead in Williamson County, Tennessee.

2004, Land Trust for Tennessee oral history project celebrating multi-generational working farms and family, agricultural and conservation practices, Williamson County, Tennessee.

2003, "Horse Sense vs. Sprawl," analyzing suburban sprawl factors of economics, infrastructure, shrinking agricultural land and green space, suggesting partnerships among preservation, recreation, and agricultural interests.

2003, National Register project nomination: Logan Henderson Farm District, originally a rural homestead and perpetual working farm in Rutherford County, Tennessee.

2002, Oral History projects:

“The Civilian Conservation Corps Oral History Project: A Collaborative Project of Public History and the Gore Research Center, Middle Tennessee State University;” World War II veteran Library of Congress oral history project.

EDUCATION

Master of Arts	Public History: Historic Preservation Middle Tennessee State University Murfreesboro, TN, 2005.
Bachelor of Music -	Jazz Composition/Arranging, cum laude, University of Memphis Memphis, Tennessee, 1991



**BRITTANY T. MCKEE
HISTORIC PRESERVATION PLANNER
THOMASON AND ASSOCIATES**

EXPERIENCE

2015-2017 Historic Preservation Associate- Thomason and Associates, Nashville, Tennessee

Cultural Resource Surveys/Section 106 Review

Conducted research and architectural history surveys to produce technical reports that include documentation of historic structures and NRHP eligibility assessments.

2014-2015 Development Associate– Upstate Forever, Greenville, South Carolina

Managed the donor database, planned fundraising events, and designed print marketing materials. Assisted in the management of the organization’s website, marketing outreach tools, and social media platforms.

Summer 2014 Historic Interpreter and Collections Intern- Spartanburg Historical Association, Spartanburg, South Carolina

Cataloged artifacts owned by the association and assisted in the foundation of a collections management policy by completing preliminary conditions assessment utilizing standards set by the National Park Service (NPS). Lead guided tours of the 18th century manor house and outbuildings.

Summer 2013 Preservation Intern- Camp Kanuga, Hendersonville, North Carolina

Created a set of measured drawings documenting six cabins in the Kanuga Lake Historic District. Worked in conjunction with the Kanuga Property Committee to develop a preservation plan for the cabins undergoing renovation by documenting material conditions and character defining features.

2012-2014 Historic Preservation, Clemson University and College of Charleston, Charleston, South Carolina, special projects:

Master’s Thesis: “Domestic Cisterns in Charleston, South Carolina: Public Health and Private Water in an Antebellum City.”

2013, Historic Structure Documentation of Villa Chichizola as part of the Genoa Field School, Clemson Architectural Foundation, Genoa, Italy.

2012, National Register nomination: Byrnes Downs Residential Historic District, located in the city of Charleston, South Carolina.

EDUCATION

Bachelor of Arts- History, College of Charleston, Charleston, South Carolina, 2011

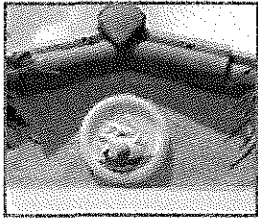
Master of Science- Historic Preservation, Clemson University, 2014

MEMBERSHIP

Historic Nashville, Inc.

Palm Grove Historic District Survey

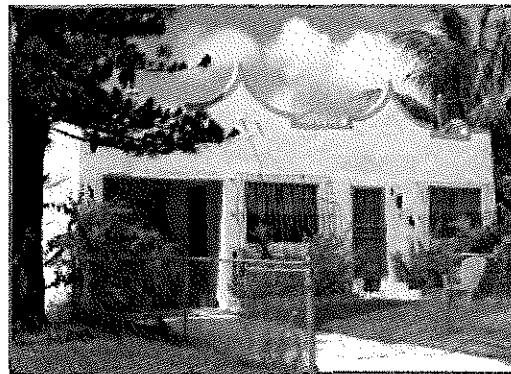
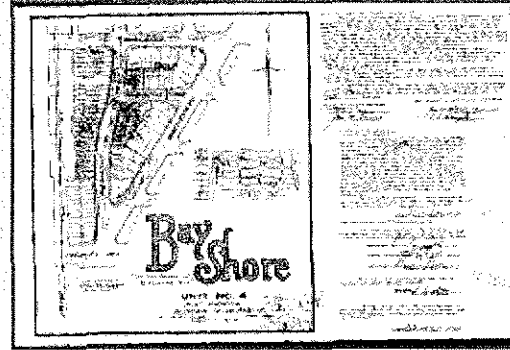
Miami, Florida



Palm Grove, a neighborhood of approximately forty blocks in Miami's northeast quadrant, reflects the city's development during

its 1920s land boom and contains a significant collection of residential architecture from the first half of the twentieth century. The district of approximately 565 buildings remains remarkably cohesive, with 89 percent of its properties contributing to the district's historic character.

The National Trust for Historic Preservation awarded the City of Miami a matching grant from the John S. and James L. Knight Foundation to support efforts by the City of Miami and the Palm Grove Neighborhood Association to seek local and National Register district designation for the neighborhood. Thomason and Associates worked with these groups, as well as other community members and public officials, to conduct an architectural survey, research and draft the preliminary designation report, and conduct public hearings.



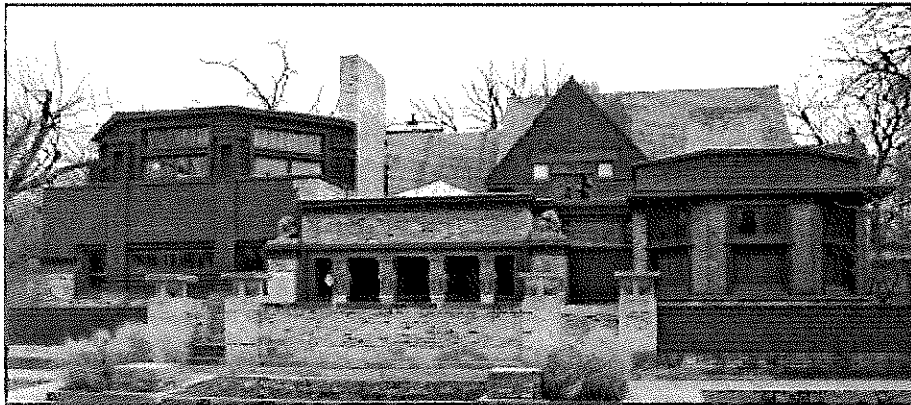
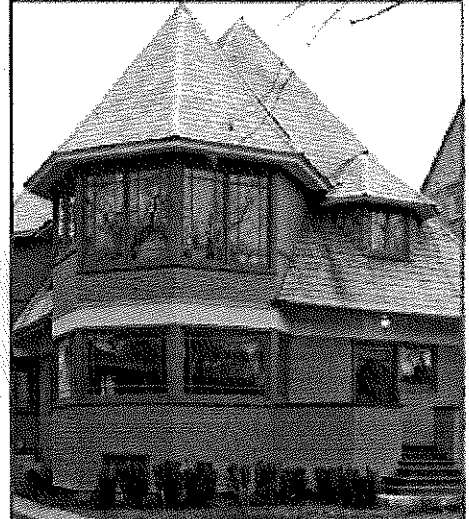
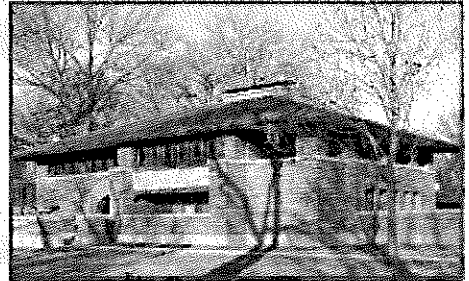
Thomason & Associates

The Frank Lloyd Wright-Prairie School of Architecture National Register of Historic Places District Expansion

Village of Oak Park, Illinois

Architectural innovator Frank Lloyd Wright lived in Oak Park while he pioneered development of the Prairie style of architecture. Named for its resemblance to the surrounding Midwestern landscape, Wright and his style deeply influenced twentieth-century architectural development. Almost ninety Prairie style buildings, the largest concentration anywhere, are in the village.

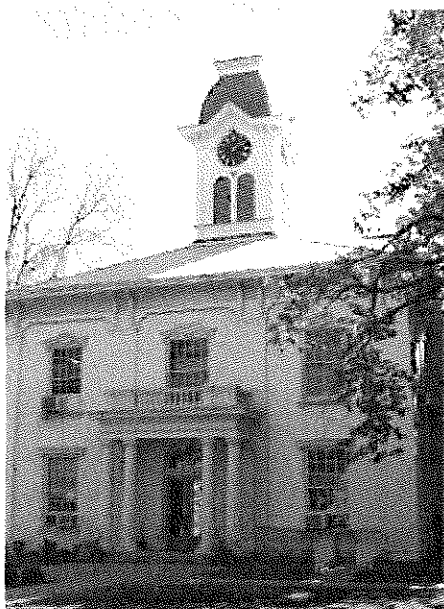
Thomason and Associates worked with the Village of Oak Park to update the district's 1973 National Register of Historic Places listing. The project resulted in an updated listing with a broader and more coherent district boundary, expanded measures of district significance, and an inventory of the nearly 2000 primary district properties.



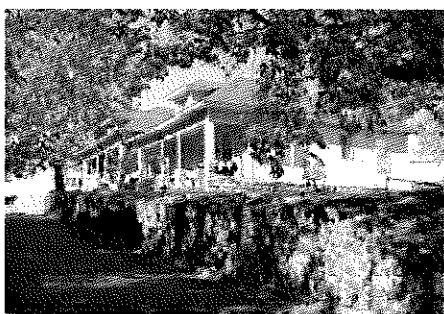
Thomason & Associates

Van Buren, Arkansas Historic Preservation Plan

Van Buren, Arkansas



Van Buren is the county seat of Crawford County in northwestern Arkansas. Its location along water, rail, and road transportation networks, enabled it to become a prosperous regional center during the 19th century. Since World War Two, industry, agri-business, and steady growth have defined Van Buren.



Particular objectives of the plan, one of many recent preservation steps taken by Van Buren and its partners, include to: heighten public and governmental awareness of the benefits of preservation, fully utilize existing incentives for historic preservation, comprehensively identify local historic resources, revitalize Van Buren's historic residential neighborhoods, continue to promote and protect the Van Buren Historic District, and create and promote a comprehensive experience for heritage tourists.

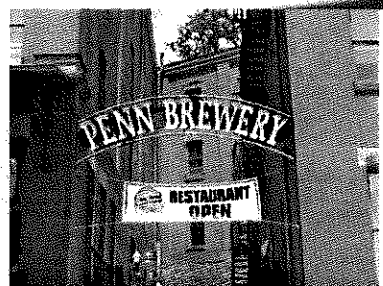
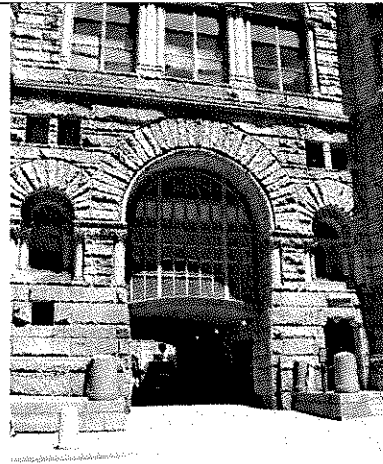


Thomason & Associates

Preserve PGH: The Pittsburgh Cultural Heritage Plan

Pittsburgh, Pennsylvania

Thomason and Associates and The Walker Collaborative served as the preservation consultants to T&B Planning to prepare *Preserve PGH: The Pittsburgh Cultural Heritage Plan*. Thomason and Associates studied each of the city's ninety neighborhoods and recommended strategies for their preservation and stabilization. The firm also reviewed the city's preservation policies and processes to identify "best practices" for conserving Pittsburgh's unique architecture and diverse cultural identity. Additionally, the firm identified methods for financial incentives and heritage tourism development to strengthen the city's historic preservation programs.



Thomason & Associates

Affidavit of Non-Collusion

a form required of Bidders and Proposers on purchases of supplies, materials, equipment and services for the
City of Franklin, Tennessee

State of Tennessee)
County of Davidson) SS

Affiant, Philip Thomason, deposes and makes oath that:
(printed name of person signing Affidavit)

1. He or she is the Principal of
(Owner or Authorized Partner, Officer, Representative or Agent of Owner)
Thomason and Associates,
(legal name of entity submitting bid or proposal)

the Bidder or Proposer who has submitted the attached bid or proposal;

2. The Bidder or Proposer is fully informed respecting the preparation and content of the attached bid or proposal and of all pertinent circumstances respecting such bid or proposal;
3. Such bid or proposal is genuine and is not a collusive or sham bid or proposal;
4. Neither the said Bidder or Proposer nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this Affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any official or agent of the City of Franklin or with any other firm, person, or potential or actual bidder or proposer to submit a collusive or sham bid or proposal in connection with the contract for which the attached bid or proposal has been submitted, or to refrain from bidding or proposing indirectly, or sought by agreement, or collusion, or communication, or conference with any other firm, person, or potential or actual bidder or proposer to fix the price or prices or cost element of the bid, quoted or proposed price or the bid, quoted or proposed price of any other potential or actual bidder or proposer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Franklin or any person interested in the proposed contract;
5. The price or prices quoted in the attached bid or proposal are fair and proper and are not tainted by a collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or Proposer or any of its agents, representatives, owners, employees, or parties in interest, including this Affiant; and
6. He or she understands that Article VIII, Section 16, of the City Charter of Franklin, and T.C.A. §6-54-107, prohibit any member of the Board of Mayor and Aldermen, or officer elected by said Board, from being interested in any contract, or work of any kind whatever, under its control and direction, and any contract in which any such person shall have an interest shall be void and unenforceable, subjecting any funds received by contractor to be returned in full to the City, in addition to any other penalties provided by law.

Philip Thomason
(signature of Affiant)

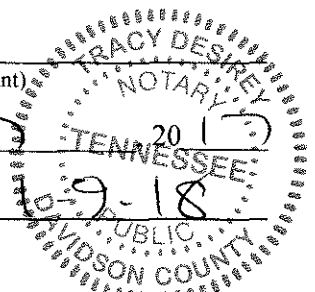
Principal

(title of Affiant)

Sworn and subscribed to before me this 20 day of March

My Commission Expires: 2017-09-18

(Notary Public)



(Submitted in response to City of Franklin Purchasing Office Solicitation No. 2017-012)

Affidavit of Title VI Compliance
a form required of Bidders and Proposers on purchases of services for the
City of Franklin, Tennessee

State of Tennessee)
) SS
County of Davidson)

Affiant, Philip Thomason, deposes and makes oath that:
(printed name of person signing Affidavit)

1. He or she is the Principal of
(Owner or Authorized Partner, Officer, Representative or Agent of Owner)
Thomason and Associates,
(legal name of entity submitting bid or proposal)

the Bidder or Proposer who has submitted the attached bid or proposal;

2. The Bidder or Proposer is fully informed respecting the preparation and content of the attached bid or proposal and of all pertinent circumstances respecting such bid or proposal;
3. No person on the grounds of handicap or disability, age, race, color, religion, sex, national origin or any other class protected by federal and/or Tennessee constitutional, statutory and/or case law shall be excluded from participation in, or denied benefits of, or be otherwise subjected to discrimination in, the performance of the contract that results from the procurement solicitation to which this affidavit is a component, or in the employment practices of the successful Bidder or Proposer during the performance of the contract that results from said procurement solicitation;
4. The successful Bidder or Proposer shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places, available to employees and job applicants, notices of such non-discrimination;
5. If, with the prior consent of the City, the successful Bidder or Proposer subcontracts any portion of the contract that results from the procurement solicitation to which this affidavit is a component, then the successful Bidder or Proposer shall contractually obligate all of its subcontractors for said contract to comply with the same non-discrimination provisions as those required of the successful Bidder or Proposer; and
6. This Affidavit is made on personal knowledge.

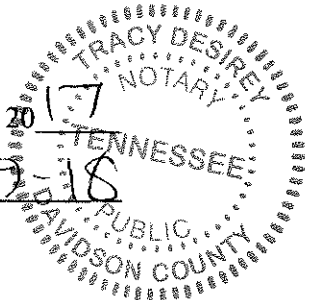
Philip Thomason
(Signature of Affiant)

Principal
(title of Affiant)

Sworn and subscribed to before me this 20 day of March, 2017

Tracy Desirey
(Notary Public)

My Commission Expires: 1-9-18



**CITY OF FRANKLIN, TENNESSEE
PROCUREMENT AGREEMENT**

(City of Franklin Contract No. 2017-0100)

Attachment No. 2

CITY'S TERMS

Standard Procurement Terms and Conditions

City of Franklin, Tennessee

1. Assignment/Subcontracting. Neither party may assign any rights or obligations under these Standard Procurement Terms and Conditions, or any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, without the prior written consent of the other party. These Standard Procurement Terms and Conditions, and any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Vendor may subcontract any portion of the work only with the prior consent of the City, but such subcontracting will not relieve Vendor of its duties under these Standard Procurement Terms and Conditions and any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply.
2. Time of the Essence. The parties agree that TIME IS OF THE ESSENCE with respect to the vendor's performance of all provisions of the contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply.
3. Taxes. As a tax-exempt entity, the City shall not be responsible for sales or use taxes incurred for products or services. Upon request, the City shall supply Vendor with a copy of its Sales and Use Tax Exemption Certificate. Vendor shall bear the burden of providing its suppliers with a copy of the City's tax exemption certificate and shall assume all liability for such taxes, if any, that should be incurred.
4. Notices. Any notice provided pursuant to these Standard Procurement Terms and Conditions, or any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, if specified to be in writing, will be in writing and will be deemed given: (a) if by hand delivery, then upon receipt thereof; (b) if mailed, then three (3) City business days after deposit in the mail where sender is located, postage prepaid, certified mail return receipt requested; (c) if by next day delivery service, then upon such delivery; or (d) if by facsimile transmission or electronic mail, then upon confirmation of receipt. All notices will be addressed to the parties at the addresses set forth below (or set forth in such other document to which these Standard Procurement Terms and Conditions apply, or such other address as either party may in the future specify in writing to the other):

In the case of the City:

City of Franklin

Attn: Purchasing Manager

Re: City of Franklin Purchasing Office Solicitation No. 2017_012

109 Third Ave. South

P.O. Box 305

Franklin, TN 37065-0305

FAX: 615-550-0079

E-mail: purchasing@franklintn.gov

In the case of Vendor:

Thomason and Associates

Philip Thomason/Principal

P.O. Box 121225

Nashville, TN 37212

615-385-4960

thomason@bellsouth.net

Standard Procurement Terms and Conditions

City of Franklin, Tennessee

5. Confidentiality and Proprietary rights. Vendor waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page (or section as the case may be) as confidential or proprietary. Proprietary rights do not extend to the data created by the City's users of the System; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation and City shall retain exclusive rights, title, and ownership of all data and images created therefrom at the moment of creation and utilization, through and including image creation. City may be required to disclose documents under state or federal law. City shall notify Vendor if a request for documents has been made and shall give Vendor a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. In exchange, Vendor agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Vendor's representation that materials supplied by Vendor (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Vendor and Vendor assumes control over that claim.
6. Derivative Works. To the extent that the Agreement contains Vendor's reservation of rights, such definitions and limitations are superseded by the following: "Derivative Work" means a program that is based on or derived from one or more existing programs or components. If the original software is modified to create a new program, a derived work is created. If the original software was designed to accept plug-ins or drivers using a defined mechanism, such a driver or plug-in does not form a derived work. Linking to a library in the way it was designed to be interfaced with, does *not* constitute deriving a work. "Derivative work" is *not* the data that the Licensee inputs, manipulates, modifies or otherwise improves, nor the images resulting therefrom.
7. Arbitration/Mediation. No arbitration shall be required as a condition precedent to filing any legal claim arising out of or relating to any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply. No arbitration or mediation shall be binding.
8. Waiver. Neither party's failure or delay to exercise any of its rights or powers under these Standard Procurement Terms and Conditions, or any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, will constitute or be deemed a waiver or forfeiture of those rights or powers. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (a) a future or continuing waiver of that same right or power, or (b) the waiver of any other right or power.
9. Warranties/Limitation of Liability/Waiver. City reserves all rights afforded to local governments under law for all general and implied warranties. The City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Vendor to limit its liability shall be void and unenforceable.
10. Severability. If any term or provision of these Standard Procurement Terms and Conditions is held to be illegal or unenforceable, the validity or enforceability of the remainder of these Standard Procurement Terms and Conditions will not be affected.

Standard Procurement Terms and Conditions

City of Franklin, Tennessee

11. **Precedence.** In the event of conflict between the provisions of these Standard Procurement Terms and Conditions and that of any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, the provisions of these Standard Procurement Terms and Conditions will to the extent of such conflict take precedence unless such document expressly states that it is amending these Standard Procurement Terms and Conditions.
12. **Indemnification.** Vendor agrees to indemnify and save the Government of Franklin, the City of Franklin and individual, on or off duty, officers, and employees of the City of Franklin, harmless from any and all losses, damages and expenses, including court costs and attorneys' fees, by reason of any loss, whatsoever, arising out of or relating to or in consequence of the work done in connection with any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, excepting only such losses as shall be occasioned solely by the negligence of the City of Franklin.
13. **Additions/Modifications.** If seeking any addition or modification to any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, the parties agree to reference the specific paragraph number sought to be changed on any future document or purchase order issued in furtherance of any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, however, an omission of the reference to same shall not affect its applicability. In no event shall either party be bound by any terms contained in any purchase order, acknowledgement, or other writings unless: (a) such purchase order, acknowledgement, or other writings specifically refer to any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply or to the specific clause they are intended to modify; (b) clearly indicate the intention of both parties to override and modify any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply; and (c) such purchase order, acknowledgement, or other writings are signed, with specific material clauses separately initialed, by authorized representatives of both parties.
14. **Applicable Law; Choice of Forum/Venue.** These Standard Procurement Terms and Conditions and any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply are made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to any state's choice-of-law rules. The choice of forum and venue shall be exclusively in the Courts of Williamson County, TN.
15. **Termination.** Unless the City has indicated otherwise in the contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, either party may terminate the contract or agreement or purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, with or without cause, upon thirty (30) calendar days' notice to the other. Upon termination by the vendor, the City shall be entitled to retain ownership of any and all goods and equipment purchased. Upon termination by the City, the vendor shall be entitled to receive any amounts due as a result of goods and equipment already delivered and/or services already rendered; however, the City shall maintain ownership and control of any goods and

Standard Procurement Terms and Conditions

City of Franklin, Tennessee

equipment purchased. Upon termination of services, whether connected or unconnected to goods and equipment, such services shall be rendered until the conclusion of the 30th calendar day as stated in the notice or until a contractual benchmark has been achieved, or as the parties may otherwise agree.

16. **Breach.** Upon deliberate breach of these Standard Procurement Terms and Conditions, or of any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, by either party, the non-breaching party shall be entitled to terminate the contract or agreement or purchase order or other procurement to which these Standard Procurement Terms and Conditions apply without notice, with all of the remedies it would have in the event of termination under section 10 ("Severability") above, and may also have such other remedies as it may be entitled to in law or in equity.
17. **Default.** If Vendor fails to perform or comply with any provision of these Standard Procurement Terms and Conditions, or of any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, then the City (i) may cancel the contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, in whole or in part, without penalty or protest by Vendor; (ii) may consider such failure to perform or comply as a breach of contract; (iii) reserves the right to purchase its requirements from the vendor that submitted the next lowest and best responsive and responsible bid, or the vendor that submitted the next best proposal, if that vendor will still honor that bid or proposal, or to seek new bids or proposals, or to pursue one or more other options available to the City in compliance with its then current purchasing policy; and (iv) may hold the defaulting vendor liable for all damages provided by law, including cost of cover.
18. **Entire Agreement.** These Standard Procurement Terms and Conditions, including any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply, constitutes the entire agreement between the parties and supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of these Standard Procurement Terms and Conditions. The terms and conditions of these Standard Procurement Terms and Conditions may not be changed except by an amendment expressly referencing these Standard Procurement Terms and Conditions by section number and signed by an authorized representative of each party.
19. **Survival.** These Standard Procurement Terms and Conditions shall survive the completion of or any termination of any contract, agreement, purchase order or other procurement to which these Standard Procurement Terms and Conditions apply.

CITY OF FRANKLIN, TENNESSEE PROCUREMENT AGREEMENT

(City of Franklin Contract No. 2017-0100)

Attachment No. 3

CERTIFICATES OF INSURANCE

Certificate Date	Producer	Certificate Number	Certificate Holder	Type of Insurance	Policy Expiration
5/2/2017	BB&T Insurance Services Inc/PHS	not indicated	City of Franklin, Tennessee	Commercial General Liability	10/1/2017
				Automobile Liability	10/1/2017
				Workers Compensation and Employers' Liability	7/7/2017
5/2/2017	BB&T Insurance Services Inc/PHS	not indicated	City of Franklin, Tennessee	Commercial General Liability	10/1/2017
				Automobile Liability	10/1/2017
				Workers Compensation and Employers' Liability	7/7/2018
5/11/2017	BB&T Insurance Services, Inc.	not indicated	City of Franklin	Errors & Omissions	5/2/2018



CERTIFICATE OF LIABILITY INSURANCE

LMC
R001

DATE (MM/DD/YYYY)
5/2/2017

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

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

PRODUCER		CONTACT NAME:	
BB&T INSURANCE SERVICES INC/PHS		PHONE (A/C, No, Ext): (866) 467-8730	
246502 P: (866) 467-8730 F: (888) 443-6112		FAX (A/C, No): (888) 443-6112	
PO BOX 29611		E-MAIL ADDRESS:	
CHARLOTTE NC 28229		INSURER(S) AFFORDING COVERAGE	
		NAIC#	
		INSURER A: Hartford Casualty Ins Co	
		29424	
INSURED		INSURER B: Hartford Underwriters Ins Co	
PHIL THOMASON DBA THOMASON & ASSOCIATES		30104	
PO BOX 121225		INSURER C:	
NASHVILLE TN 37212		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR HYD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY			20 SBA TE7393	10/01/2016	10/01/2017	EACH OCCURRENCE
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						\$2,000,000
	General Liab	X					DAMAGE TO RENTED PREMISES (Ea occurrence)
							\$300,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						MED EXP (Any one person)
	POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC						\$10,000
	OTHER:						PERSONAL & ADV INJURY
							\$2,000,000
A	AUTOMOBILE LIABILITY			20 SBA TE7393	10/01/2016	10/01/2017	GENERAL AGGREGATE
	ANY AUTO OWNED AUTOS ONLY						\$4,000,000
	SCHEDULED AUTOS						PRODUCTS - COMP/OP AGG
	X HIRED AUTOS ONLY	X					\$4,000,000
	NON-OWNED AUTOS ONLY						
	UMBRELLA LIAB						COMBINED SINGLE LIMIT (Ea accident)
	EXCESS LIAB						\$2,000,000
	OCCUR						BODILY INJURY (Per person)
	CLAIMS-MADE						\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			20 WEC EX3326	07/07/2016	07/07/2017	BODILY INJURY (Per accident)
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N					\$
	If yes, describe under DESCRIPTION OF OPERATIONS below						PROPERTY DAMAGE (Per accident)
							\$

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

Those usual to the Insured's Operations. Certificate holder is an additional insured per the Business Liability Coverage Form SS0008 attached to this policy.

CERTIFICATE HOLDER

CANCELLATION

City of Franklin, Tennessee
109 3RD AVE S
FRANKLIN, TN 37064

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

For Tailor



CERTIFICATE OF LIABILITY INSURANCE

LMC
R001

DATE (MM/DD/YYYY)
5/2/2017

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PRODUCER BB&T INSURANCE SERVICES INC/PHS 246502 P: (866) 467-8730 F: (888) 443-6112 PO BOX 29611 CHARLOTTE NC 28229	CONTACT NAME: PHONE (A/C, No, Ext): (866) 467-8730 FAX (A/C, No): (888) 443-6112 E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: Hartford Casualty Ins Co NAIC# 29424 INSURER B: Hartford Underwriters Ins Co 30104 INSURER C: INSURER D: INSURER E: INSURER F:
INSURED PHIL THOMASON DBA THOMASON & ASSOCIATES PO BOX 121225 NASHVILLE TN 37212	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR HYD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY			20 SBA TE7393	10/01/2016	10/01/2017	EACH OCCURRENCE \$2,000,000
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000
	X General Liab	X					MED EXP (Any one person) \$10,000
							PERSONAL & ADV INJURY \$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$4,000,000
	POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$4,000,000
	OTHER:						\$
A	AUTOMOBILE LIABILITY			20 SBA TE7393	10/01/2016	10/01/2017	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000
	ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/>						BODILY INJURY (Per person) \$
	X HIRED AUTOS ONLY						BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>						\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			20 WEC EX3326	07/07/2017	07/07/2018	X PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N	N/A					E.L. EACH ACCIDENT \$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$1,000,000
							E.L. DISEASE - POLICY LIMIT \$1,000,000

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

Those usual to the Insured's Operations. Certificate holder is an additional insured per the Business Liability Coverage Form SS0008 attached to this policy.

CERTIFICATE HOLDER

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City of Franklin, Tennessee
109 3RD AVE S
FRANKLIN, TN 37064

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AUTHORIZED REPRESENTATIVE

For Tailor

BUSINESS LIABILITY COVERAGE FORM

QUICK REFERENCE
BUSINESS LIABILITY COVERAGE FORM
READ YOUR POLICY CAREFULLY

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BUSINESS LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section **C.** - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G.** - Liability And Medical Expenses Definitions.

A. COVERAGES

1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

- b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:

- (a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (b) The "bodily injury" or "property damage" occurs during the policy period; and

- (c) Prior to the policy period, no insured listed under Paragraph 1. of Section **C.** - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- (2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

- c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section **C.** - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

BUSINESS LIABILITY COVERAGE FORM

- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

e. Incidental Medical Malpractice

- (1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:
 - (a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and
 - (b) You are not engaged in the business or occupation of providing such services.
- (2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

2. MEDICAL EXPENSES

Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:
- (1) The accident takes place in the "coverage territory" and during the policy period;
 - (2) The expenses are incurred and reported to us within three years of the date of the accident; and
 - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

3. COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS

- a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:
- (1) All expenses we incur.
 - (2) Up to \$1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
 - (3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
 - (4) 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.
 - (5) All costs taxed against the insured in the "suit".
 - (6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
 - (7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

Any amounts paid under (1) through (7) above will not reduce the limits of insurance.

b. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (2) This insurance applies to such liability assumed by the insured;
- (3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interest of the indemnitee;
- (5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (6) The indemnitee:
 - (a) Agrees in writing to:
 - (i) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (iii) Notify any other insurer whose coverage is available to the indemnitee; and
 - (iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (b) Provides us with written authorization to:
 - (i) Obtain records and other information related to the "suit"; and
 - (ii) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph **1.b.(b)** of Section **B.** – Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- (1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- (2) The conditions set forth above, or the terms of the agreement described in Paragraph (6) above, are no longer met.

B. EXCLUSIONS

1. Applicable To Business Liability Coverage

This insurance does not apply to:

a. Expected Or Intended Injury

- (1) "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; or
- (2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Contractual Liability

- (1) "Bodily injury" or "property damage"; or
- (2) "Personal and advertising injury"

for which the insured 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 because of:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

BUSINESS LIABILITY COVERAGE FORM

(b) "Bodily injury" or "property damage" assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purpose of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage" provided:

- (i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and
- (ii) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business, or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
 - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
 - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i) Any insured; or
 - (ii) Any person or organization for whom you may be legally responsible;
 - (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
 - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".
- However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

BUSINESS LIABILITY COVERAGE FORM

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

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" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 51 feet long; and
 - (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or
- (6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

- (2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;
- (3) Supervisory, inspection, architectural or engineering activities;
- (4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
- (7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

- (8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products;
- (9) Any:
 - (a) Body piercing (not including ear piercing);
 - (b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and
 - (c) Similar services;
- (10) Services in the practice of pharmacy; and
- (11) Computer consulting, design or programming services, including web site design.

Paragraphs (4) and (5) of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph 1.e. in Section A. - Coverages.

k. Damage To Property

"Property damage" to:

- (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Section D. - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at a job site.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

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o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal And Advertising Injury

"Personal and advertising injury":

- (1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of a criminal act committed by or at the direction of the insured;
- (4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";
- (5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (6) Arising out of the wrong description of the price of goods, products or services;
- (7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of

- (a) Copyright;
- (b) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

(c) Title of any literary or artistic work;

(8) Arising out of an offense committed by an insured whose business is:

- (a) Advertising, broadcasting, publishing or telecasting;
- (b) Designing or determining content of web sites for others; or
- (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** under the definition of "personal and advertising injury" in Section **G.** – Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;
- (10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers;
- (11) Arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act;

(12) Arising out of:

- (a) An "advertisement" for others on your web site;
- (b) Placing a link to a web site of others on your web site;
- (c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or
- (d) Computer code, software or programming used to enable:
 - (i) Your web site; or
 - (ii) The presentation or functionality of an "advertisement" or other content on your web site;

- (13) Arising out of a violation of any anti-trust law;
- (14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or
- (15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

q. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

r. Employment-Related Practices

"Bodily injury" or "personal and advertising injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

s. Asbestos

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:

- (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
- (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
- (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information

"Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Damage To Premises Rented To You – Exception For Damage By Fire, Lightning or Explosion

Exclusions **c.** through **h.** and **k.** through **o.** do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance.

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2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

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

c. Injury On Normally Occupied Premises

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

d. Workers' Compensation And Similar Laws

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

e. Athletics Activities

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

f. Products-Completed Operations Hazard

Included with the "products-completed operations hazard".

g. Business Liability Exclusions

Excluded under Business Liability Coverage.

C. WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a.** An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b.** A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c.** A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d.** An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

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

2. Each of the following is also an insured:

a. Employees And Volunteer Workers

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

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

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

- (a)** To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b)** To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph **(1)(a)** above;
- (c)** For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(1)(a)** or **(b)** above; or
- (d)** Arising out of his or her providing or failing to provide professional health care services.

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

(2) "Property damage" to property:

- (a)** Owned, occupied or used by,

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

b. Real Estate Manager

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

c. Temporary Custodians Of Your Property

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

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

d. Legal Representative If You Die

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

e. Unnamed Subsidiary

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

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

3. Newly Acquired Or Formed Organization

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

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

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

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

4. Operator Of Mobile Equipment

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

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

5. Operator of Nonowned Watercraft

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

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

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

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

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

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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:

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- (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.

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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.

F. OPTIONAL ADDITIONAL INSURED COVERAGES

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph 6. (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section C., Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

1. Additional Insured - Designated Person Or Organization

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, 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; or
- b. In connection with your premises owned by or rented to you.

2. Additional Insured - Managers Or Lessors Of Premises

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

3. Additional Insured - Grantor Of Franchise

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

4. Additional Insured - Lessor Of Leased Equipment

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Lessor of Leased Equipment, but only with respect to 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(s) or organization(s).

- b. 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.

5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1) Any "occurrence" that takes place after you cease to lease that land; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

6. Additional Insured - State Or Political Subdivision – Permits

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured – State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

7. Additional Insured – Vendors

- a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - 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".
- b. The insurance afforded to the vendor is subject to the following additional exclusions:

- (1) 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, unless 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.

8. Additional Insured – Controlling Interest

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

- a. Their financial control of you; or
- b. Premises they own, maintain or control while you lease or occupy these premises.

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This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, 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:

- (1) In the performance of your ongoing operations for the additional insured(s); or
- (2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an 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 failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

10. Additional Insured – Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

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.

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper;

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in **a.** above;
- c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in **a.** above;
 - (2) The activities of a person whose home is in the territory described in **a.** above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.

- 7. "Electronic data" means information, facts or programs:
 - a. Stored as or on;
 - b. Created or used on; or
 - c. Transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
- 8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- 10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
- 11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
- b. Your fulfilling the terms of the contract or agreement.

12. "Insured contract" means:

- 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 or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section **D. – Liability and Medical Expenses Limits of Insurance.**
- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement; or
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph **f.** does not include that part of any contract or agreement:

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- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
- (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.
13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
14. "Loading or unloading" means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
 - b. While it is in or on an aircraft, watercraft or "auto"; or
 - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
- but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
 - b. Vehicles maintained for use solely on or next to premises you own or rent;
 - c. Vehicles that travel on crawler treads;
 - d. Vehicles, whether self-propelled or not, on which are permanently mounted:
- (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c., or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c., or d. above maintained primarily for purposes other than the transportation of persons or cargo.
- However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
- (1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
 - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;

- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies, committed by or on behalf of its owner, landlord or lessor;
 - d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - e. Oral, written or electronic publication of material that violates a person's right of privacy;
 - f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";
 - g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or
 - h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.
- 18. "Pollutants"** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- 19. "Products-completed operations hazard";**
- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
- Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
- The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.
- b. Does not include "bodily injury" or "property damage" arising out of:
 - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or
 - (2) The existence of tools, uninstalled equipment or abandoned or unused materials.
- 20. "Property damage"** means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
 - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.
- As used in this definition, "electronic data" is not tangible property.
- 21. "Suit"** means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
- 22. "Temporary worker"** means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- 23. "Volunteer worker"** means a person who:
- a. Is not your "employee";

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- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

- (1)** Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a)** You;
 - (b)** Others trading under your name; or
 - (c)** A person or organization whose business or assets you have acquired; and
- (2)** Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

- (2)** The providing of or failure to provide warnings or instructions.

- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

- (1)** Work or operations performed by you or on your behalf; and
- (2)** Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2)** The providing of or failure to provide warnings or instructions.

ACORDTM**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

05/11/2017

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

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must 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 BB&T Insurance Services, Inc. 414 Gallimore Dairy Road Suite F Greensboro, NC 27409	CONTACT NAME: PHONE (A/C, No, Ext): 888 743-2217 FAX (A/C, No): 8888279861 E-MAIL ADDRESS: <table border="1"> <tr> <th data-bbox="816 426 1433 447">INSURER(S) AFFORDING COVERAGE</th> <th data-bbox="1442 426 1572 447">NAIC #</th> </tr> <tr> <td data-bbox="816 453 1433 474">INSURER A : Mount Vernon Fire Insurance Com</td> <td data-bbox="1442 453 1572 474">26522</td> </tr> <tr> <td data-bbox="816 489 1433 510">INSURER B :</td> <td data-bbox="1442 489 1572 510"></td> </tr> <tr> <td data-bbox="816 525 1433 546">INSURER C :</td> <td data-bbox="1442 525 1572 546"></td> </tr> <tr> <td data-bbox="816 560 1433 581">INSURER D :</td> <td data-bbox="1442 560 1572 581"></td> </tr> <tr> <td data-bbox="816 596 1433 617">INSURER E :</td> <td data-bbox="1442 596 1572 617"></td> </tr> <tr> <td data-bbox="816 632 1433 653">INSURER F :</td> <td data-bbox="1442 632 1572 653"></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Mount Vernon Fire Insurance Com	26522	INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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INSURER D :															
INSURER E :															
INSURER F :															
INSURED Phil Thomason DBA Thomason & Associates PO Box 121225 Nashville, TN 37212															


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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ 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 <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Errors & Omissions			SP20083081 RETRO DATE	05/02/2017 05/02/2008	05/02/2018	\$1,000,000 EACH CLAIM \$1,000,000 AGGREGATE \$5,000 RETENTION

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

CERTIFICATE HOLDER**CANCELLATION**

City of Franklin City Hall 137 109 3rd Avenue South Franklin, TN 37064	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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**CITY OF FRANKLIN, TENNESSEE
PROCUREMENT AGREEMENT**

(City of Franklin Contract No. 2017-0100)

Attachment No. 4

INDEMNIFICATION AGREEMENT

Indemnification Agreement
a form required of Bidders and Proposers on purchases of services for the
City of Franklin, Tennessee

State of Tennessee)
) SS
County of Davidson)

On behalf of Bidder/Proposer, Philip Thomason agrees that:
(printed name of person signing Agreement)

1. He or she is the Principal of
(Owner or Authorized Partner, Officer, Representative or Agent of Owner)
Thomason and Associates,
(legal name of entity submitting bid or proposal)

the Bidder or Proposer who has submitted the attached bid or proposal;

2. The Bidder or Proposer is fully informed respecting the preparation and content of the attached bid or proposal and of all pertinent circumstances respecting such bid or proposal;
3. The Bidder or Proposer agrees to indemnify and save the Government of Franklin, the City of Franklin and individual, on or off duty, officers, and employees of the City of Franklin, harmless from any and all losses, damages and expenses, including court costs and attorneys' fees, by reason of any loss, whatsoever, arising out of or relating to or in consequence of the work done in connection with any contract, agreement, purchase order or other procurement to which this Agreement applies, excepting only such losses as shall be occasioned solely by the negligence of the City of Franklin; and
4. This Agreement is made on personal knowledge.

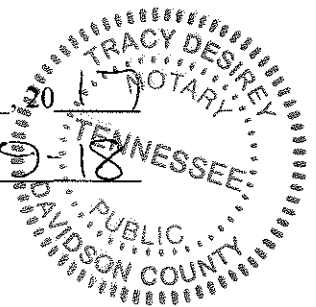
Philip Thomason
(signature of person whose printed name appears above)

Principal
(title of person whose printed name appears above)

Sworn and subscribed to before me this 20 day of March

Tracy Desirey
(Notary Public)

My Commission Expires: 1-9-18



(Submitted in response to City of Franklin Purchasing Office Solicitation No. 2017 012)