



## PROFESSIONAL/CONSULTING SERVICES AGREEMENT

### 1. **PARTIES**

This Agreement is made by and between the City of Cupertino, a municipal corporation (“City”), and Independent Code Consultant, Inc (“Contractor”), a corporation for plan review services for the Westport project specifically the row house/townhouse and Building 2 senior independent living units. and is effective on the last date signed below (“Effective Date”).

### 2. **SERVICES**

Contractor agrees to provide the services and perform the tasks (“Services”) set forth in detail in Scope of Services, attached here and incorporated as **Exhibit A**. Contractor further agrees to carry out its work in compliance with any applicable local, State, or Federal order regarding COVID-19.

### 3. **TIME OF PERFORMANCE**

**3.1** This Agreement begins on the Effective Date and ends on June 30, 2024 (“Contract Time”), unless terminated earlier as provided herein. Contractor’s Services shall begin on September 9, 2021, and shall be completed by June 30, 2024. The City’s appropriate department head or the City Manager may extend the Contract Time through a written amendment to this Agreement, provided such extension does not include additional contract funds. Extensions requiring additional contract funds are subject to the City’s purchasing policy.

**3.2 Schedule of Performance.** Contractor must deliver the Services in accordance with the Schedule of Performance, attached and incorporated here **Exhibit B**.

**3.3 Time is of the essence** for the performance of all the Services. Contractor must have sufficient time, resources, and qualified staff to deliver the Services on time.

### 4. **COMPENSATION**

**4.1 Maximum Compensation.** City will pay Contractor for satisfactory performance of the Services an amount that will be based on actual costs but that will be capped so as not to exceed \$ 210,000 (“Contract Price”), based upon the scope of services in **Exhibit A** and the budget and rates included in **Exhibit C**, Compensation attached and incorporated here. The maximum compensation includes all expenses and reimbursements and will remain in place even if Contractor’s actual costs exceed the capped amount. No extra work or payment is permitted without prior written approval of City.

**4.2 Invoices and Payments.** Monthly invoices must state a description of the deliverable completed and the amount due for the preceding month. Within thirty (30) days of completion of Services, Contractor must submit a requisition for final and complete payment of costs and pending claims for City approval. Failure to timely submit a complete and accurate payment requisition relieves City of any further payment or other obligations under the Agreement.

## **5. INDEPENDENT CONTRACTOR**

**5.1 Status.** Contractor is an independent contractor and not an employee, partner, or joint venture of City. Contractor is solely responsible for the means and methods of performing the Services and for the persons hired to work under this Agreement. Contractor is not entitled to health benefits, worker's compensation, or other benefits from the City.

**5.2 Contractor's Qualifications.** Contractor warrants on behalf of itself and its subcontractors that they have the qualifications and skills to perform the Services in a competent and professional manner and according to the highest standards and best practices in the industry.

**5.3 Permits and Licenses.** Contractor warrants on behalf of itself and its subcontractors that they are properly licensed, registered, and/or certified to perform the Services as required by law and have procured a City Business License, if required by the Cupertino Municipal Code.

**5.4 Subcontractors.** Only Contractor's employees are authorized to work under this Agreement. Prior written approval from City is required for any subcontractor, and the terms and conditions of this Agreement will apply to any approved subcontractor.

**5.5 Tools, Materials, and Equipment.** Contractor will supply all tools, materials and equipment required to perform the Services under this Agreement.

**5.6 Payment of Benefits and Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. Contractor and any of its employees, agents, and subcontractors shall not have any claim under this Agreement or otherwise against City for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, insurance benefits, social security, disability, unemployment, workers compensation or employee benefits of any kind. Contractor shall be solely liable for and obligated to pay directly all applicable taxes, fees, contributions, or charges applicable to Contractor's business including, but not limited to, federal and state income taxes. City shall have no obligation whatsoever to pay or withhold any taxes or benefits on behalf of Contractor. Should any court, arbitrator, or administrative authority, including but not limited to the California Public Employees Retirement System (PERS), the Internal Revenue Service or the State Employment Development Division, determine that Contractor, or any of its employees, agents, or subcontractors, is an employee for any purpose, then Contractor agrees to a reduction in amounts payable under this Agreement, or to promptly remit to City any payments due by the City as a result of such determination, so that the City's total expenses under this Agreement are not greater than they would have been had the determination not been made.

6. **PROPRIETARY/CONFIDENTIAL INFORMATION/SHARING OF INFORMATION**

In performing this Agreement, Contractor may have access to private or confidential information owned or controlled by the City, which may contain proprietary or confidential details the disclosure of which to third parties may be damaging to City. Contractor shall hold in confidence all City information provided by City to Contractor and use it only to perform this Agreement. Contractor shall exercise the same standard of care to protect City information as a reasonably prudent contractor would use to protect its own proprietary data.

The City of Cupertino (email address: permitcenter@cupertino.org) shall be copied on any direct email correspondence or communication sent by the Consultant to the applicant for all responses or inquiries related to the plan review of the Westport Cupertino project.

7. **OWNERSHIP OF MATERIALS**

**7.1 Property Rights.** Any interest (including copyright interests) of Contractor in any product, memoranda, study, report, map, plan, drawing, specification, data, record, document, or other information or work, in any medium (collectively, “Work Product”), prepared by Contractor in connection with this Agreement will be the exclusive property of the City upon completion of the work to be performed hereunder or upon termination of this Agreement, to the extent requested by City. In any case, no Work Product shall be shown to any third-party without prior written approval of City.

**7.2 Copyright.** To the extent permitted by Title 17 of the U.S. Code, all Work Product arising out of this Agreement is considered “works for hire” and all copyrights to the Work Product will be the property of City. Alternatively, Contractor assigns to City all Work Product copyrights. Contractor may use copies of the Work Product for promotion only with City’s written approval.

**7.3 Patents and Licenses.** Contractor must pay royalties or license fees required for authorized use of any third party intellectual property, including but not limited to patented, trademarked, or copyrighted intellectual property if incorporated into the Services or Work Product of this Agreement.

**7.4 Re-Use of Work Product.** Unless prohibited by law and without waiving any rights, City may use or modify the Work Product of Contractor or its sub-contractors prepared or created under this Agreement, to execute or implement any of the following:

- (a) The original Services for which Contractor was hired;
- (b) Completion of the original Services by others;
- (c) Subsequent additions to the original Services; and/or
- (d) Other City projects.

**7.5 Deliverables and Format.** Contractor must provide electronic and hard copies of the Work Product, on recycled paper and copied on both sides, except for one single-sided original.

## **8. RECORDS**

Contractor must maintain complete and accurate accounting records relating to its performance in accordance with generally accepted accounting principles. The records must include detailed information of Contractor's performance, benchmarks and deliverables, which must be available to City for review and audit. The records and supporting documents must be kept separate from other records and must be maintained for four (4) years from the date of City's final payment.

## **9. ASSIGNMENT**

Contractor shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of City. Any attempt to do so will be null and void. Any changes related to the financial control or business nature of Contractor as a legal entity is considered an assignment of the Agreement and subject to City approval, which shall not be unreasonably withheld. Control means fifty percent (50%) or more of the voting power of the business entity.

## **10. PUBLICITY/SIGNS**

Any publicity generated by Contractor for the project under this Agreement, during the term of this Agreement and for one year thereafter, will reference the City's contributions in making the project possible. The words "City of Cupertino" will be displayed in all pieces of publicity, including flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles. No signs may be posted, exhibited or displayed on or about City property, except signage required by law or this Contract, without prior written approval from the City.

## **11. INDEMNIFICATION**

**11.1** To the fullest extent allowed by law, and except for losses caused by the sole and active negligence or willful misconduct of City personnel, Contractor shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, officials, employees, agents, servants, volunteers, and consultants ("Indemnitees"), through legal counsel acceptable to City, from and against any and all liability, damages, claims, actions, causes of action, demands, charges, losses, costs, and expenses (including attorney fees, legal costs, and expenses related to litigation and dispute resolution proceedings) of every nature, arising directly or indirectly from this Agreement or in any manner relating to any of the following:

- (a) Breach of contract, obligations, representations, or warranties;
- (b) Negligent or willful acts or omissions committed during performance of the Services;
- (c) Personal injury, property damage, or economic loss resulting from the work or performance of Contractor or its subcontractors or sub-subcontractors;
- (d) Unauthorized use or disclosure of City's confidential and proprietary Information;
- (e) Claim of infringement or violation of a U.S. patent or copyright, trade secret, trademark, or service mark or other proprietary or intellectual property rights of any third party.

**11.2** Contractor must pay the costs City incurs in enforcing this provision. Contractor must accept a tender of defense upon receiving notice from City of a third-party claim. At City's request,

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Contractor will assist City in the defense of a claim, dispute, or lawsuit arising out of this Agreement.

**11.3** Contractor's duties under this section are not limited to the Contract Price, workers' compensation payments, or the insurance or bond amounts required in the Agreement. Nothing in the Agreement shall be construed to give rise to an implied right of indemnity in favor of Contractor against City or any Indemnitee.

**11.4.** Contractor's payments may be deducted or offset to cover any money the City lost due to a claim or counterclaim arising out of this Agreement, a purchase order, or other transaction.

**11.5.** Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 11 from each and every subcontractor, or any other person or entity involved by, for, with, or on behalf of Contractor in the performance of this Agreement. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder.

**11.6.** This Section 11 shall survive termination of the Agreement.

## **12. INSURANCE**

Contractor shall comply with the Insurance Requirements, attached and incorporated here as **Exhibit D**, and must maintain the insurance for the duration of the Agreement, or longer as required by City. City will not execute the Agreement until City approves receipt of satisfactory certificates of insurance and endorsements evidencing the type, amount, class of operations covered, and the effective and expiration dates of coverage. Failure to comply with this provision may result in City, at its sole discretion and without notice, purchasing insurance for Contractor and deducting the costs from Contractor's compensation or terminating the Agreement.

## **13. COMPLIANCE WITH LAWS**

**13.1 General Laws.** Contractor shall comply with all local, state, and federal laws and regulations applicable to this Agreement. Contractor will promptly notify City of changes in the law or other conditions that may affect the Project or Contractor's ability to perform. Contractor is responsible for verifying the employment authorization of employees performing the Services, as required by the Immigration Reform and Control Act.

**13.2 Labor Laws.** Contractor shall comply with all labor laws applicable to this Agreement. If the Scope of Services includes a "public works" component, Contractor is required to comply with prevailing wage laws under Labor Code Section 1720 and other labor laws.

**13.3 Discrimination Laws.** Contractor shall not discriminate on the basis of race, religious creed, color, ancestry, national origin, ethnicity, handicap, disability, marital status, pregnancy, age, sex, gender, sexual orientation, gender identity, Acquired-Immune Deficiency Syndrome (AIDS), or any other protected classification. Contractor shall comply with all anti-discrimination laws, including Government Code Sections 12900 and 11135, and Labor Code Sections 1735, 1777, and 3077.5. Consistent with City policy prohibiting harassment and discrimination, Contractor understands that harassment and discrimination directed toward a job applicant, an

employee, a City employee, or any other person, by Contractor or its employees or sub-contractors will not be tolerated. Contractor agrees to provide records and documentation to the City on request necessary to monitor compliance with this provision.

**13.4 Conflicts of Interest.** Contractor shall comply with all conflict of interest laws applicable to this Agreement and must avoid any conflict of interest. Contractor warrants that no public official, employee, or member of a City board or commission who might have been involved in the making of this Agreement, has or will receive a direct or indirect financial interest in this Agreement, in violation of California Government Code Section 1090 et seq. Contractor may be required to file a conflict of interest form if Contractor makes certain governmental decisions or serves in a staff capacity, as defined in Section 18700 of Title 2 of the California Code of Regulations. Contractor agrees to abide by the City's rules governing gifts to public officials and employees.

**13.5 Remedies.** Any violation of Section 13 constitutes a material breach and may result in City suspending payments, requiring reimbursements or terminating this Agreement. City reserves all other rights and remedies available under the law and this Agreement, including the right to seek indemnification under Section 11 of this Agreement.

#### **14. PROJECT COORDINATION**

**City Project Manager.** The City assigns Albert Salvador, Asst Director of CDD/Building Official as the City's representative for all purposes under this Agreement, with authority to oversee the progress and performance of the Scope of Services. City reserves the right to substitute another Project manager at any time, and without prior notice to Contractor.

**Contractor Project Manager.** Subject to City approval, Contractor assigns Abigail Obligation, President as its single Representative for all purposes under this Agreement, with authority to oversee the progress and performance of the Scope of Services. Contractor's Project manager is responsible for coordinating and scheduling the Services in accordance with the Scope of Services and the Schedule of Performance. Contractor must regularly update the City's Project Manager about the progress with the work or any delays, as required under the Scope of Services. City written approval is required prior to substituting a new Representative.

#### **15. ABANDONMENT OF PROJECT**

City may abandon or postpone the Project or parts therefor at any time. Contractor will be compensated for satisfactory Services performed through the date of abandonment, and will be given reasonable time to assemble the work and close out the Services. With City's pre-approval in writing, the time spent in closing out the Services will be compensated up to a maximum of ten percent (10%) of the total time expended to date in the performance of the Services.

#### **16. TERMINATION**

City may terminate this Agreement for cause or without cause at any time. Contractor will be paid for satisfactory Services rendered through the date of termination, but final payment will not be made until Contractor closes out the Services and delivers the Work Product.

**17. GOVERNING LAW, VENUE, AND DISPUTE RESOLUTION**

This Agreement is governed by the laws of the State of California. Any lawsuits filed related to this Agreement must be filed with the Superior Court for the County of Santa Clara, State of California. Contractor must comply with the claims filing requirements under the Government Code prior to filing a civil action in court. If a dispute arises, Contractor must continue to provide the Services pending resolution of the dispute. If the Parties elect arbitration, the arbitrator's award must be supported by law and substantial evidence and include detailed written findings of law and fact.

**18. ATTORNEY FEES**

If City initiates legal action, files a complaint or cross-complaint, or pursues arbitration, appeal, or other proceedings to enforce its rights or a judgment in connection with this Agreement, the prevailing party will be entitled to reasonable attorney fees and costs.

**19. THIRD PARTY BENEFICIARIES**

There are no intended third party beneficiaries of this Agreement.

**20. WAIVER**

Neither acceptance of the Services nor payment thereof shall constitute a waiver of any contract provision. City's waiver of a breach shall not constitute waiver of another provision or breach.

**21. ENTIRE AGREEMENT**

This Agreement represents the full and complete understanding of every kind or nature between the Parties, and supersedes any other agreement(s) and understanding(s), either oral or written, between the Parties. Any modification of this Agreement will be effective only if in writing and signed by each Party's authorized representative. No verbal agreement or implied covenant will be valid to amend or abridge this Agreement. If there is any inconsistency between any term, clause, or provision of the main Agreement and any term, clause, or provision of the attachments or exhibits thereto, the terms of the main Agreement shall prevail and be controlling.

**22. INSERTED PROVISIONS**

Each provision and clause required by law for this Agreement is deemed to be included and will be inferred herein. Either party may request an amendment to cure mistaken insertions or omissions of required provisions. The Parties will collaborate to implement this Section, as appropriate.

**23. HEADINGS**

The headings in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit, or amplify the terms or provisions of this Agreement.

**24. SEVERABILITY/PARTIAL INVALIDITY**

If any term or provision of this Agreement, or their application to a particular situation, is found by the court to be void, invalid, illegal, or unenforceable, such term or provision shall remain in force and effect to the extent allowed by such ruling. All other terms and provisions of this Agreement or their application to specific situations shall remain in full force and effect. The Parties agree to work in good faith to amend this Agreement to carry out its intent.

**25. SURVIVAL**

All provisions which by their nature must continue after the Agreement expires or is terminated, including the Indemnification, Ownership of Materials/Work Product, Records, Governing Law, and Attorney Fees, shall survive the Agreement and remain in full force and effect.

**26. NOTICES**

All notices, requests and approvals must be sent in writing to the persons below, which will be considered effective on the date of personal delivery or the date confirmed by a reputable overnight delivery service, on the fifth calendar day after deposit in the United States Mail, postage prepaid, registered or certified, or the next business day following electronic submission:

<p>To City of Cupertino</p> <p>Attention: <u>Albert Salvador</u></p> <p>Email: <u>AlbertS@cupertino.org</u></p>	<p>To Contractor: <u>Independent Code Consultants</u></p> <p><u>5870 Stoneridge Mall Road, Suite 200</u></p> <p><u>Pleasanton, CA 94588</u></p> <p>Attention: <u>Abigail Obligation</u></p> <p>Email: <u>aobligacion@independentconsultants.com</u></p>
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**27. EXECUTION**

The person executing this Agreement on behalf of Contractor represents and warrants that Contractor has full right, power, and authority to enter into and carry out all actions contemplated by this Agreement and that he or she is authorized to execute this Agreement, which constitutes a legally binding obligation of Contractor. This Agreement may be executed in counterparts, each one of which is deemed an original and all of which, taken together, constitute a single binding instrument.

SIGNATURES CONTINUE ON THE FOLLOWING PAGE



**IN WITNESS WHEREOF**, the parties have caused the Agreement to be executed.

**CITY OF CUPERTINO**  
A Municipal Corporation

**CONTRACTOR**

By \_\_\_\_\_

By \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
CHRISTOPHER D. JENSEN  
Cupertino City Attorney

**ATTEST:**

\_\_\_\_\_  
KIRSTEN SQUARCIA  
City Clerk

DATE: \_\_\_\_\_



INDEPENDENT CODE CONSULTANTS

I N C O R P O R A T E D

# WESTPORT CUPERTINO

Cost Proposal for Plan Review Services

July 29, 2021  
rev. August 16, 2021

**SUBMITTED TO:**

City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014-3255

**Attention:**

Mr. Albert Salvador | CBO

**SUBMITTED BY:**

Independent Code Consultants, Inc.  
5870 Stoneridge Mall Road, Suite 200  
Pleasanton, CA 94588

**Contact:**

Ms. Abigail Obligacion | President  
T | 925.264.9559  
E | [aobligacion@independentcodeconsultants.com](mailto:aobligacion@independentcodeconsultants.com)

July 29, 2021  
(rev. August 16, 2021)

Mr. Albert Salvador | CBO  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014

### **Westport Cupertino | Cost Proposal for Plan Review Services**

Dear Mr. Salvador:

Thank you for the opportunity for considering our team to assist you in providing building and on-site plan review services for the Westport Cupertino project. Independent Code Consultants, Inc. (ICCI) has established a team of highly qualified professionals. Our team is prepared to provide multi-discipline services to ensure the Westport Cupertino project is a success from demolition to certificate of occupancy.

It is ICCI's understanding that the Westport Cupertino project is to demolish a 71,250 square foot retail center (The Oaks) on a 8.1 acre site, and construct a mixed-use urban village. The proposed project will be construction of the following residential and commercial buildings:

- ▶ Site Improvements & Parking and Frontage Improvements.
- ▶ Building 2: 6-story building with 48 below market rate (BMR) affordable, senior, independent living, residential units and 2,400 square feet of round-floor retail/commercial.
- ▶ 70 single-family residential townhouses, 18 single-family residential rowhouses and one-level below-ground garage with 111 residential parking spaces and 80 retail parking spaces are proposed.

ICCI guarantees to complete the plan review on-time and will work alongside your team to ensure the project is a success. The following pages outline our detailed cost proposal (including a not-to-exceed amount). We look forward to working with you and feel free to contact us with any questions.

Respectfully Submitted,



Abigail Obligation | President  
Independent Code Consultants, Inc.

# EXHIBIT A

## SUMMARY OF SERVICES

### PLAN REVIEW SERVICES

The following is a summary of plan review services to be provided.

#### Building:

1. State and local laws and regulations
2. City of Cupertino Municipal Code and City of Cupertino's Conditions of Approval
3. Ensure drawings conform and comply with Title 24 California Code of Regulations
  - ▶ Fire and Life-Safety
  - ▶ Accessibility
  - ▶ Structural
  - ▶ Plumbing
  - ▶ Mechanical
  - ▶ Electrical
  - ▶ Energy
  - ▶ Green Building Standards
4. Substantiate structural plans meet recommendations made in the project geotechnical report
5. Ensure plans and details are consistent with product specifications and certification

#### On-Site Public Works/Civil Engineering Aspects:

1. State and local laws and regulations
2. City of Cupertino standards, conditions of approval, and mitigation measures relating to civil design
3. Substantiate grading plans meet recommendations made in the project geotechnical report
4. Grading plan check to include a review of the topographic survey for the existing depths of manholes and catch basins and their relationship to the proposed improvements
5. Review the existing topography to the proposed slopes and walls
6. Review on-site storm drains, sewer system and public improvements meet City requirements
7. Verify hydrology calculations match what is shown on the Improvement Plans and storm system is adequately sized for the design storm
8. Confirm stormwater treatment areas are adequately sized

### Other Tasks:

1. Attendance of Design and Construction Meetings
2. Review and assist with technical problems that arise during construction
3. Will maintain a tracking system to document all plan reviews and reports, tracking of construction progress and processing of change orders, RFI's and deferred submittals

# EXHIBITS B & C

## RATE AND SERVICE STRUCTURE

ICCI guarantees that turnaround times will meet or exceed all project deadlines. Expedited turnaround times will be subject to discussion by all concerned parties to ensure all milestones are completed on schedule.

Building and On-Site Plan Review Services	Unit Rate	Unit
Building and On-site Plan Review Fee (first submittal plus one (1) additional subsequent submittal)	65% of Plan Review Fee	
Complete Plan Review Submittal beyond the 2nd Submittal	\$125.00	Hour
Basis of Charges	Unit Rate	
Work over 8 hours a day	Time and One-Half	
Work over 12 hours, Monday through Friday	Double Time	
Work on Saturdays	Time and One-Half	
Work over 8 hours on Saturday	Double Time	
Work on Sundays/Holidays	Double Time	
Reimbursables	Cost	

Building and Public Works / Engineering Plan Review Contract Not-to-Exceed (NTE) Amounts	
Complete Building and On-Site Plan Review	\$210,000.00

Note: Plan review services are based on the assumption no significant design changes will be done during the initial plan review and subsequent plan review submittals. Major design changes incurred during the plan review stages will be charged as deemed appropriate and negotiated by all parties for building and on-site plan review.

### PLAN REVIEW TIMELINE

Independent Code Consultants will meet your plan review needs, which includes attending meetings and workshops when necessary. We also are able to meet or exceed the following timelines for plan review services:

All plan reviews, including revisions and deferred submittals	
Initial Review:	15 Days
Subsequent Reviews:	10 Days





COMMERCIAL GENERAL LIABILITY  
POLICY NUMBER: 3AA438076

## EVANSTON INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### BLANKET ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM  
LIQUOR LIABILITY COVERAGE FORM  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM

#### SCHEDULE

Additional Premium: \$ 500 (Check box if fully earned. )

- A. Who Is An Insured is amended to include as an additional insured any person or entity to whom you are obligated by valid written contract to provide such coverage, but only with respect to negligent acts or omissions of the Named Insured and only with respect to any coverage not otherwise excluded in the policy.

However:

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

Our agreement to accept an additional insured provision in a contract is not an acceptance of any other provisions of the contract or the contract in total.

When coverage does not apply for the Named Insured, no coverage or defense will apply for the additional insured.

No coverage applies to such additional insured for injury or damage of any type to any "employee" of the Named Insured or to any obligation of the additional insured to indemnify another because of damages arising out of such injury or damage.

- B. With respect to the insurance afforded to these additional insured, the following is added to limits of insurance:

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

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable limits of insurance shown in the Declarations.

All other terms and conditions remain unchanged.





**COMMERCIAL GENERAL LIABILITY**  
POLICY NUMBER: 3AA438076

## **EVANSTON INSURANCE COMPANY**

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

### **BLANKET WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

#### **SCHEDULE**

**Name Of Person Or Organization:**

Any person(s) or organization(s) with whom the Named Insured agrees, in a written contract executed prior to the "occurrence", to waive rights of recovery

**Additional Premium:** \$ 250

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

We waive any right of recovery we may have against any person or organization shown in the Schedule of this endorsement. This waiver applies only to the person or organization shown in the Schedule of this endorsement.

All other terms and conditions remain unchanged.

**COMMERCIAL GENERAL LIABILITY  
CG 20 01 04 13**

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

**PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

**Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.



ENDORSEMENT AGREEMENT  
WAIVER OF SUBROGATION  
BLANKET BASIS

BROKER COPY

HOME OFFICE  
SAN FRANCISCO

ALL EFFECTIVE DATES ARE  
AT 12:01 AM PACIFIC  
STANDARD TIME OR THE  
TIME INDICATED AT  
PACIFIC STANDARD TIME

EFFECTIVE JANUARY 12, 2021 AT 12.01 A.M.  
AND EXPIRING JANUARY 12, 2022 AT 12.01 A.M.

9224300-21  
RENEWAL  
NA  
1-69-33-36  
PAGE 1 OF 1

INDEPENDENT CODE CONSULTANTS (A CO  
6280 W LAS POSITAS BLVD STE 220  
PLEASANTON, CA 94588

WE HAVE THE RIGHT TO RECOVER OUR PAYMENTS FROM ANYONE  
LIABLE FOR AN INJURY COVERED BY THIS POLICY. WE WILL  
NOT ENFORCE OUR RIGHT AGAINST THE PERSON OR  
ORGANIZATION NAMED IN THE SCHEDULE.

THIS AGREEMENT APPLIES ONLY TO THE EXTENT THAT YOU  
PERFORM WORK UNDER A WRITTEN CONTRACT THAT REQUIRES YOU  
TO OBTAIN THIS AGREEMENT FROM US.

THE ADDITIONAL PREMIUM FOR THIS ENDORSEMENT SHALL BE  
2.00% OF THE TOTAL POLICY PREMIUM.

SCHEDULE

<u>PERSON OR ORGANIZATION</u>	<u>JOB DESCRIPTION</u>
ANY PERSON OR ORGANIZATION FOR WHOM THE NAMED INSURED HAS AGREED BY WRITTEN CONTRACT TO FURNISH THIS WAIVER	BLANKET WAIVER OF SUBROGATION

NOTHING IN THIS ENDORSEMENT CONTAINED SHALL BE HELD TO VARY, ALTER, WAIVE  
OR EXTEND ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS  
POLICY OTHER THAN AS STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE  
HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR  
LIMITATIONS OF THIS ENDORSEMENT.

COUNTERSIGNED AND ISSUED AT SAN FRANCISCO: JANUARY 2, 2021

AUTHORIZED REPRESENTATIVE

PRESIDENT AND CEO

SCIF FORM 10217 (REV.7-2014)

2572  
OLD DP 217