

**AGREEMENT FOR A COMPENSATION STUDY FOR NON-
BARGAINING MEMEBERS BETWEEN THE CITY OF DORAL AND
EVERGREEN SOLUTIONS, LLC**

THIS AGREEMENT (hereinafter referred to as the “Agreement”) is made and entered into by and between Evergreen Solutions, LLC, a Florida limited liability corporation authorized to conduct business in the State of Florida, having its principal office at 2528 Barrington Circle, Unit 201, Tallahassee, Florida 32308 (hereinafter referred to as “CONTRACTOR”), and the City of Doral, a political subdivision of the State of Florida, having its principal office at 8401 NW 53rd Terrace, Doral, Florida 33166 (hereinafter referred to as “CITY”).

RECITALS

WHEREAS, the CITY is in need of a contractor to conduct a compensation study for the CITY’s non-bargaining member employees to analyze the CITY’s pay practices and determine if they are compatible with industry and geographic practices; and

WHEREAS, the CITY desires to procure from the CONTRACTOR such services for the CITY, in accordance with the terms and conditions of this Agreement; and

WHEREAS, the CONTRACTOR desires to render services to the CITY as described in their Proposal dated September 1, 2023 (Attached hereto as Exhibit “A”), and has the qualifications, experience, staff and resources to perform those services; and

WHEREAS, in accordance with Section 2-318(b) of the Code of Ordinances of the City of Doral, the City Manager having received at least three quotes from at least three different vendors, the City Manager has determined that it to be in the best interest of the CITY to award an Agreement to the CONTRACTOR for the rendering of those services described in the CONTRACTOR’s Proposal.

INCORPORATION BY REFERENCE AND ENTIRE AGREEMENT

The foregoing “WHEREAS” clauses are hereby incorporated by reference and affirmed and ratified by the Parties as true and correct. The Documents which comprise this Agreement between the CITY and the CONTRACTOR are attached hereto, made a part hereof and consist of the following:

- A. This Agreement and attached addendums; and
- B. CONTRACTOR’s Proposal dated September 1, 2023 (Exhibit “A”).

In the event of a conflict between any of the terms and conditions contained in this Agreement and the Attachments, this Agreement shall prevail.

NOW THEREFORE, in consideration of the mutual covenants, terms and provisions contained herein, the Parties do hereby agree as follows: promises and the mutual covenants herein name, the parties agree as follows:

TERMS AND CONDITIONS

SECTION 1. TERM.

1.1 The term of this Agreement shall begin upon the full execution of this Agreement.

1.2 The CITY has the right to terminate this Agreement for convenience and for any reason or no reason, in whole or in part, upon thirty (30) day written notice to the CONTRACTOR. Upon termination of this Agreement, and final payment of any undisputed outstanding amounts due for the work rendered prior to and through the date of the notice of termination, copies of all records, charts and other documents related to the work performed under this Agreement, whether furnished or not shall be turned over to the CITY within ten (10) days.

1.3 If a party fails to fulfil in a timely manner any of the covenants, agreements or stipulations material to this Agreement, the non-defaulting Party shall thereupon have the right to terminate this Agreement for cause. Prior to exercising its option to terminate for cause, the non-defaulting Party shall notify the defaulting Party of its violation of the particular term(s) of this Agreement being defaulted upon and shall grant the defaulting Party ten (10) business days to remedy such default. If such default remains uncured after ten (10) business days, the non-defaulting Party may terminate this Agreement without further notice to the defaulting Party. Upon termination, the non-defaulting Party shall be fully discharged from any and all liabilities, duties and terms arising out of, or by virtue of, this Agreement.

SECTION 2. COMPENSATION.

2.1 During the term of this Agreement, in whatever capacity rendered, the CITY shall pay CONTRACTOR for Services performed under this Agreement in an amount not to exceed \$29,500.00. Payment to CONTRACTOR for all charges and tasks under this Agreement shall be made in three (3) installments as described in the Cost and Timeline Section of the CONTRACTOR's Proposal.

a. Disbursements. There are no reimbursable expenses associated with this Agreement, except for expenses approved by the City Manager.

b. CONTRACTOR shall make no other charges to the CITY for supplies, labor, taxes, licenses, permits, overhead or other expenses or costs other than those charges and costs contained in the CONTRACTOR's Proposal. If the CITY disputes any charges on the invoices, it may make payment of the uncontested amounts and withhold payment on the contested amounts until they are resolved by agreement with the CONTRACTOR. CONTRACTOR shall not pledge the CITY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgement, lien or any other form of indebtedness. The CONTRACTOR further warrants and represents that it has no indebtedness that would impair its ability to fulfill the terms of this Agreement.

2.2 The CITY as a municipal corporation is subject to the Local Government Payment Act, as defined in Chapter 218, Part IV, Florida Statutes (2023).

SECTION 3. SCOPE OF SERVICES/DELIVERABLES.

3.1 CONTRACTOR agrees to provide Services to the CITY, as more particularly set forth in the Contract Documents, and are incorporated herein by reference.

3.2 The Services shall be performed by CONTRACTOR to the full satisfaction of the CITY.

SECTION 4 NOTICE.

4.1 Whenever any party desires to give notice unto any other party, it must be in writing and sent by certified mail, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this Section. Notice may also be sent by electronic means (facsimile or email) provided such is followed by a hard copy of such notice provided in the manner set forth above. Notice is deemed given when received. For the present, CONTRACTOR and the CITY designate the following as the respective places for giving such notice:

To the CITY: Barbara Hernandez
City Manager
City of Doral
8401 NW 53rd Terrace
Doral, Florida 33166

With a Copy to: City Attorney
City of Doral
8401 NW 53rd Terrace
Doral, Florida 33166

With an Additional Copy to: Maria Jose
Human Resources Director
City of Doral
8401 NW 53rd Terrace
Doral, Florida 33166

To CONTRACTOR: Jeffrey Ling, PhD
President
2528 Barrington Circle
Unit # 201
Tallahassee, Florida 32308

SECTION 5. MODIFICATIONS.

5.1 The covenants, terms and provisions of this Agreement may be modified only by way of a written instrument, mutually accepted by the Parties hereto in writing and executed in the same formality as this Agreement. In the event of a conflict between the covenants, terms and/or provisions of this Agreement and any written amendment(s) hereto, the provisions of the latest properly executed instrument shall take precedence.

SECTION 6. INDEPENDENT CONTRACTOR.

6.1 The CONTRACTOR is an independent contractor under this Agreement. Personnel provided by the CONTRACTOR shall be employees of the CONTRACTOR and subject to the supervision by the CONTRACTOR, and not as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security, health insurance, worker's compensation insurance, employee benefits, purchasing policies and another similar administrative procedures

applicable to the Work rendered under this Agreement shall be those of the CONTRACTOR. The CONTRACTOR shall be solely responsible for any injuries suffered by the CONTRACTOR's employees. It is clear that the CITY will not provide workers' compensation insurance for the CONTRACTOR or its employees.

6.2 Nothing contained in this Agreement is intended to or shall be construed so as to create a partnership or joint venture and neither Party hereto shall be liable for the debts or obligations of the others. No employee or agent of the CONTRACTOR shall be deemed to be an employee or agent of the CITY. The CONTRACTOR shall be responsible for compliance with all applicable local, state and federal laws and regulations in the performance of any services to the CITY. Should any question arise as to the interpretation or as to the nature of the services to be provided by the CONTRACTOR, the opinion of the CITY shall establish, for all purposes, the nature of the work to be performed. The CONTRACTOR shall have no power to obligate the CITY.

SECTION 7. INDEMNIFICATION.

7.1 For other good and valuable consideration the receipt and adequacy of which is hereby acknowledged, CONTRACTOR agrees to indemnify, defend, with counsel approved by the City and hold harmless, the CITY, its officers, agents, and employees from, and against any and all claims, causes of actions, demands, liabilities, losses and expenses including, but not limited to, attorneys' fees, including attorney fees at the trial and all levels of the appeal, for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or may be alleged to have risen from the negligent acts, errors, omissions, willful misconduct or other wrongful conduct of CONTRACTOR, its officer, employees, agents, servants, or other personnel or entity acting under CONTRACTOR's control in connection with CONTRACTOR's performance of services under this Agreement and to that extent CONTRACTOR shall pay such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses including any default by the CONTRACTOR, wrongful termination or allegations of discrimination or harassment, and shall pay all costs and attorneys' fees expended by the CITY in defense of such claims and losses including appeals. That the aforesaid hold-harmless agreement by CONTRACTOR shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations of CONTRACTOR or any agent or employee of CONTRACTOR regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

7.2 It is understood and agreed by CONTRACTOR that its liability to the CITY, and/or to CITY'S officers, employees, agents, servants, and contracts, under Section 7.1, shall not in any way be limited to or affected by the amount of insurance coverages required or carried by CONTRACTOR under this Agreement.

The provisions of Section 7.1 shall survive expiration or termination of this Agreement.

SECTION 8. GOVERNING LAW.

8.1 This Agreement shall be governed by the laws of the State of Florida. Any claim, objection, or dispute arising out of the terms of this Agreement shall be brought in Miami-Dade County or in the event of federal jurisdiction, the United States District Court for the Southern District of Florida.

SECTION 9. RECORDS.

9.1 CONTRACTOR agrees that all records, books, documents, papers and financial information (“Records”) that result from providing services to the CITY under this agreement shall be the property of the CITY. Upon termination or cancellation of this agreement, any and all such Records shall be delivered to the CITY within ten (10) days. The CITY shall maintain records, books, documents, papers and financial information pertaining to work performed under this agreement during the term of this agreement and for a period of three (3) years following termination of this agreement. The City Manager or his/her designee shall have access to and the right to examine and audit any Records involving the CONTRACTOR’s services related to this agreement. The restrictions and obligations of this Section of this Agreement shall survive any expiration, termination, or cancellation of this Agreement and shall continue to bind the CONTRACTOR, successors and assigns.

SECTION 10. CONFLICT OF INTERST AND CODE OF ETHICS.

10.1 The CONTRACTOR represents that it has provided a list of all current clients subject to the jurisdiction of the CITY. Any potential or actual conflict between private interests and responsibilities under this Agreement shall be immediately disclosed to the CITY. Upon request of the CONTRACTOR, and full disclosure of the nature and extent of the proposed representation, the CITY Manager or his designee shall have the authority to authorize such representation during the term of this Agreement.

10.2 The CONTRACTOR agrees to adhere to and be governed by all applicable provisions of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance Section 2-11.1, as amended; and by the City of Doral Charter and Code as amended; both of which are incorporated by reference as if fully set forth herein, in connection with this Agreement conditions hereunder. The CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirectly that should conflict in any manner or degree with the performance of the services.

SECTION 11. COMPLIANCE WITH FLORIDA PUBLIC RECORDS LAW.

11.1 Pursuant to Section 119.0701 of the Florida Statutes, CONTRACTOR agrees to:

- A. Keep and maintain public records in CONTRACTOR’s possession or control in connection with CONTRSACTOR’s performance under this agreement. CONTRACTOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the CITY.
- B. Upon request from the CITY's custodian of public records, CONTRACTOR shall provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.

Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in

connection with this Agreement are and shall remain the property of the CITY. Notwithstanding, it is understood that at all times CONTRACTOR's workpapers shall remain the sole property of CONTRACTOR and are not subject to the terms of this Agreement.

- C. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to this Agreement in the possession of CONTRACTOR shall be delivered by CONTRACTOR to the CITY Manager, at no cost to the CITY, within seven (7) days. All such records stored electronically by CONTRACTOR shall be delivered to the CITY in a format that is compatible with the City's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, CONTRACTOR shall destroy any and all duplicate records that are exempt or confidential and exempt from public records disclosure requirements. Notwithstanding the terms of this Section, the Parties agree and it is understood that CONTRACTOR will maintain a copy of any information, confidential or otherwise, necessary to support its work product generated as a result of its engagement for services, solely for reference and archival purposes in accordance with all applicable professional standards, which will remain subject to the obligations of confidentiality herein.
- D. Any compensation due to CONTRACTOR shall be withheld until all records are received as provided herein.
- E. CONTRACTOR's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the CITY.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHALL CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (TELEPHONE NUMBER: 305-593-6730 E-MAIL ADDRESS: CONNIE.DIAZ@CITYOFDORAL.COM, AND MAILING ADDRESS: THE CITY OF DORAL HALL 8401 NW 53RD TERRACE, DORAL, FL 33166

SECTION 12. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).

12.1 The CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include this requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

12.2 The CONTRACTOR shall also comply with Florida Statute 448.095, which directs all public employers, including municipal governments, and private employers with 25 or more employees to verify the employment eligibility of all new employees through the U.S. Department

of Homeland Security's E-Verify System, and further provides that a public entity may not enter into a contract unless each party to the contract registers with and uses the E-Verify system. Florida Statute 448.095 further provides that if a Contractor enters into a contract with a subcontractor, the subcontractor must provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. In accordance with Florida Statute 448.095, CONTRACTOR, if it employs more than 25 employees, is required to verify employee eligibility using the E-Verify system for all existing and new employees hired by CONTRACTOR during the contract term. Further, CONTRACTOR must also require and maintain the statutorily required affidavit of its subcontractors. It is the responsibility of CONTRACTOR to ensure compliance with E-Verify requirements (as applicable). To enroll in E-Verify, employers should visit the E-Verify website (<https://www.e-verify.gov/employers/enrolling-in-e-verify>) and follow the instructions. CONTRACTOR must retain the I-9 Forms for inspection, and provide an executed E-Verify Affidavit, which is attached hereto as Addendum "1".

SECTION 13. EQUAL EMPLOYMENT.

13.1 During the performance of this Agreement or any related Work Order, the CONTRACTOR shall:

- A. Not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, handicap, or national origin. CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, age, sex, handicap, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR shall post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. In all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, it must state that all qualified applicants will receive considerations for employment without regard to race, color, religion, age, sex, handicap, or national origin.

SECTION 14. ASSIGNMENT AND CONSULTING.

14.1 This Agreement and the rights of the CONTRACTOR and obligations hereunder may not be assigned, delegated, or subconsulted by the CONTRACTOR without the express prior written consent of the CITY. Any assignment, delegation or subconsult without such express prior written consent shall be null and void and shall constitute a material breach of this Agreement, upon which the CITY may immediately terminate the Agreement in accordance with the provisions of paragraph (Termination by Default). The CITY may assign its rights, together with its obligations hereunder.

SECTION 15. SOVEREIGN IMMUNITY.

15.1 The CITY is a political subdivision of the State of Florida, self-insured and subject to the provisions of Section 768.28, Florida Statutes, as may be amended from time to time. Nothing in this Agreement shall be deemed or otherwise interpreted as waiving the CITY's sovereign

immunity protections, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.

SECTION 16. ORDER OF PRECEDENCE.

16.1 In the event there is a conflict between this Agreement and the CONTRACTOR's Proposal, this Agreement shall take precedence. Any ambiguities that present themselves from this Agreement shall be resolved by the City Manager.

SECTION 17. CONFIDENTIAL INFORMATION.

17.1 The CONTRACTOR agrees that any information received by the CONTRACTOR from the City or otherwise and in providing services in accordance with this Agreement, which is not publicly available, shall not be revealed to any other persons, firm or organizations without the expressed consent of the City Manager or designee.

SECTION 18. INSURANCE.

18.1 The Contractor shall secure and maintain throughout the duration of this Agreement insurance of such type and in such amounts as required by the CITY and are described in Addendum II. The insurance carrier shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida.

18.2 Certificates of Insurance shall be provided to the City at the time of execution of this Agreement and certified copies provided if requested. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the City before any policy or coverage is cancelled or restricted, or in accordance with policy provisions. The City further reserves the right to require or solicit additional coverage, as needed, and depending on the nature of scope, or level of exposure.

SECTION 19. NON-EXCLUSIVITY.

19.1 This Agreement is non-exclusive. The CITY retains the right to engage the services of additional third-party contractors or assign responsibilities to an employee of the CITY to perform the same or similar services provided by CONTRACTOR under this Agreement and to assign work to such parties in its sole discretion.

SECTION 20. ANTI-DISCRIMINATION.

20.1 CONTRACTOR certifies that it does not discriminate in its membership or policies based on race, color, national origin, religion, sex, sexual orientation, familial status or handicap. CONTRACTOR further agrees that neither CONTRACTOR, nor any parent company, subsidiaries or affiliates of CONTRACTOR are currently engaged in, nor will engage in during the term of this Agreement, the boycott of a person or business based in or doing business with a member of the World Trade Organization or any country with which the United States has free trade.

SECTION 21. SCRUTINIZED COMPANIES.

21.1 CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the CITY'S may

immediately terminate this Agreement at its sole option if the CONTRACTOR or its Subcontractors are found to have submitted a false certification; or if the CONTRACTOR, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

21.2 If this Agreement is for more than one million dollars, the CONTRACTOR certifies that it and its Subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, its affiliates, or its subcontractors are found to have submitted a false certification; or if the CONTRACTOR, its affiliates, or its Subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or sample Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

21.3 CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated consulting prohibitions then they shall become inoperative.

SECTION 22. NO CONTINGENCY FEES.

22.1 The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or of this Agreement.

SECTION 23. COMPLIANCE WITH LAWS.

23.1 The CONTRACTOR shall comply with the applicable requirements of State laws and all Codes and Ordinances of the CITY as amended from time to time, together with keeping and maintaining in full force and effect during the term of this Agreement all licenses and certificates of authorization required pursuant to applicable law.

23.2 Any documents provided by CONTRACTOR to the CITY are public records and the CITY may authorize third parties to review and reproduce such documents pursuant to public records laws, including the provisions of Chapter 119, Florida Statutes.

SECTION 24. MISCELLANEOUS.

24.1 In the event any provision of this Agreement is found to be void and unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall nevertheless be binding upon the parties with the same effect as though the void or unenforceable provisions had been severed and deleted.

24.2 This Agreement may be executed in multiple identical counterparts, each of which shall be deemed an original for all purposes.

24.3 This Agreement shall constitute the entire agreement between the parties with respect to the subject matter hereof, and it shall supersede all previous and contemporaneous oral and written negotiations, commitments, agreements and understandings relating hereto.

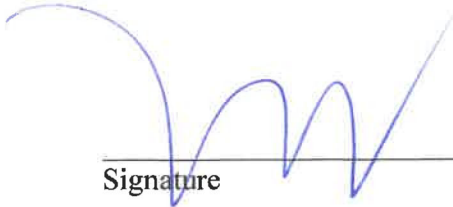
24.4 Any modification of this Agreement shall be effective only if in writing and signed by the parties to this Agreement.

24.5 No waiver of any provision of this Agreement shall be valid or enforceable unless such waiver is in writing and signed by the party granting such waiver.

THIS SECTION INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate on the day and year first written above.

EVERGREEN SOLUTIONS, LLC



Signature

Jeffrey Ling, President

Print Name and Title

9/15/2023

Date

WITNESSES:



Signature

Brenda K. Whurr

Print Name



Signature

Jacqueline Barnes

Print Name

CITY OF DORAL

Attest: 

Connie, Diaz, City Clerk

9/22/2023

Date

BY: 

Barbara Hernandez, City Manager

9/22/2023

Date

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY: 

9/15/2023

Valerie Vincente, City Attorney
Nabors, Giblin & Nickerson P.A.

ADDENDUM "II"INSURANCE REQUIREMENTS**I. Commercial General Liability**

- A. Limits of Liability:
- | | |
|---|-------------|
| Bodily Injury & Property Damage Liability | |
| Each Occurrence | \$1,000,000 |
| Policy Aggregate (Per Job/Location) | \$2,000,000 |
| Personal & Advertising Injury | \$1,000,000 |
| Products & Completed Operations | \$2,000,000 |
- B. Endorsements Required
- City of Doral listed as an additional insured
Contingent & Contractual Liability
Premises and Operations Liability
Primary Insurance Clause Endorsement

II. Business Automobile Liability

- A. Limits of Liability:
- | | |
|---|-------------|
| Bodily Injury and Property Damage | |
| Combined Single Limit | |
| Any Auto/Owned Autos or Scheduled Autos | |
| Including hired and Non- Owned Autos | |
| Any One Accident | \$1,000,000 |
- B. Endorsements Required:
- City of Doral listed as an additional insured

III. Professional Liability

- | | |
|-----------------------------------|-------------|
| A. Including errors and omissions | \$2,000,000 |
|-----------------------------------|-------------|

IV. Workers Compensation / Employers' Liability

- A. Workers Compensation Limits: Statutory - State of Florida
- B. Employers Liability Limits:
- | |
|--|
| \$1,000,000 for bodily injury caused by an accident, each accident |
| \$1,000,000 for bodily injury caused by disease, each employee |
| \$1,000,000 for bodily injury caused by disease, policy limit |

Confirmation that Workers Compensation is provided for all persons fulfilling this contract, whether employed, contracted, temporary or subcontracted is required.

Umbrella or Excess Liability insurance can be utilized to provide the required limits. Coverage shall be "following form" and shall not be more restrictive than the underlying insurance policy coverages, including all special endorsements and City as Additional Insured status.

Waiver of Subrogation: All overage shall have a Waiver of Subrogation/Indemnity in favor of the City.

Subcontractors' Compliance: It is the responsibility of the contractor to ensure that all subcontractors comply with all insurance requirements.

The above policies shall provide the City of Doral with written notice of cancellation or material change from the insurer in accordance with policy provisions.

Companies authorized to do business in the State of Florida with the following qualifications shall issue all insurance policies required above. City reserves the right but not the obligation to reject any insurer providing coverage due to poor or deteriorating financial condition.

The Company must be rated no less than "A-" as to management, and no less than "Class V" as to financial strength, by the latest edition of Best Insurance Guide published by A.M. best Company, or its equivalent. All policies or certificates of insurance are subject to review and verification by Risk Management.



EXHIBIT "A"

Evergreen Solutions, LLC

2528 Barrington Circle • Unit #201 • Tallahassee, Florida 32308
850.383.0111 • fax 850.383.1511

September 1, 2023

Ms. Rita Markowycz, M.S.
Assistant Human Resources Director City of Doral
8401 NW 53 Terrace
Doral, Florida 33166

Dear Ms. Markowycz:

SUBMITTED VIA EMAIL: Rita.Markowycz@cityofdoral.com

We appreciate the opportunity to submit a letter proposal to conduct a Compensation Study for Non-bargaining members of the City of Doral. We have prepared a work plan outlining the tasks, activities, and milestones necessary to accomplish this study as well as a proposed timeline and cost for each study.

Detailed Work Plan

Task 1.0 Project Initiation

TASK GOALS

- Finalize the project plan with the City of Doral (City).
- Gather all pertinent data.
- Finalize any remaining contractual negotiations.
- Establish an agreeable final time line for all project milestones and deliverables.

TASK ACTIVITIES

- 1.1 Meet with the City's Project Manager (CPM) to discuss the following objectives:
 - understand the City's mission and current compensation philosophy (if any);
 - review our proposed methodology, approach, and project work plan to identify any necessary revisions;
 - reach agreement on a schedule for the project including all assignments and project milestones/deliverables;
 - establish an agreeable communication schedule.
- 1.2 Obtain relevant materials from the City, including:
 - any previous projects, research, evaluations, or other studies that may be relevant to this project;

**Task 2.0
Identify List of
Market Survey
Benchmarks
and Approved
List of Targets**

- organizational charts for the departments and divisions, along with related responsibility descriptions;
- current position and classification descriptions, salary schedule(s), and classification system; and
- personnel policies and procedures.

1.3 Review and edit the project work plan and submit a schedule for the completion of each project task.

KEY PROJECT MILESTONES

- Comprehensive project management plan
- Comprehensive database of City non-bargaining employees

TASK GOALS

- Identify positions to benchmark for the market salary survey.
- Identify and develop a comprehensive list of targets for conducting a successful external labor market salary assessment.

TASK ACTIVITIES

- 2.1 Identify and review with the CPM the classifications that will be used as benchmarks for the market salary survey. Note: Evergreen will work with the CPM to select up to 70 classifications to use as benchmarks for the market salary survey.
- 2.2 Finalize the list of benchmark positions.
- 2.3 Review with the CPM up to 20 peer organizations that should be included in the market salary survey. Evergreen understands that the City is looking to link its compensation strategy to the top five paying cities in the respondent sample.
- 2.4 Add questions on supplements and additives as well as specific extra benefits employees might receive for recruitment and retention.
- 2.5 Review survey methodology with the CPM and refine survey methodology prior to distribution of survey.
- 2.6 After approval of survey methodology, develop contact list of peer organizations and notify peers of impending survey.

KEY PROJECT MILESTONES

- Initial list of survey peers
- Survey methodology
- Final list of survey organizations and contact



**Task 3.0
Conduct Market
Salary Survey and
Provide External
Assessment
Summary**

TASK GOALS

- Conduct the external labor market salary survey.
- Provide a summary of the survey results to the CPM for review.

TASK ACTIVITIES

- 3.1 Prepare a customized external labor market salary survey for the CPM's approval. Discuss the questions to include in the survey with the CPM. **Note:** Evergreen will collect base pay and supplements, allowances (e.g., phone/vehicles/stipends) and incentives based in certifications/degrees. In addition, Evergreen will collect certification pay and requirements, policies on managing the pay plan (critical class adjustments, hiring rate, extra compensation), and another other pay incentives from competitors.
- 3.2 Contact the targets for electronic completion of the survey. Provide paper copies by fax, if requested.
- 3.3 Conduct necessary follow-up through e-mails, faxes, and phone calls.
- 3.4 Collect and enter survey results into Evergreen Solutions' electronic data analysis tools.
- 3.5 Validate all data submitted.
- 3.6 Develop summary report of external labor market salary assessment results.
- 3.7 Submit summary report of external labor market salary assessment results to the CPM.

KEY PROJECT MILESTONES

- Market survey instrument
- Summary report of external labor market salary assessment results

**Task 4.0
Develop Strategic
Positioning
Recommendations**

TASK GOALS

- Assess the appropriateness of the City's current compensation philosophy.
- Develop a plan for all employees, providing issue areas and preliminary recommendations for strategic improvement.

TASK ACTIVITIES

- 4.1 Identify the compensation philosophy and accompanying thresholds



**Task 5.0
Conduct Solution
Analysis**

4.2 Using the market salary data collected in **Task 3.0**, determine the proper pay plan for the City including number of grades, steps, and ranges. Note: Evergreen will align its recommendations with the top five competitors.

4.3 Produce a revised pay plan for the City that best meets its needs from an external equity standpoint.

KEY PROJECT MILESTONES

- Proposed compensation strategic direction, taking into account internal and external equity
- Plan for addressing unique, highly competitive positions

TASK GOALS

- Slot classifications into the revised or new pay scale based on market survey results.
- Propose several possible options for implementation.

TASK ACTIVITIES

5.1 Use a market-based approach, or other appropriate techniques, to properly slot each classification into the revised or new pay scale.

5.2 Place all classifications into pay grades based on Task Activity 6.1. Sort alphabetically by job class title, in descending order by range, and by old class title and new class specifications.

5.3 Create implementation solutions for consideration that take into account the current compensation philosophy and financial impact, as well as the findings from the compensation analysis. Recommend alternative compensation policy changes.

5.4 Determine the best solution to meet the needs of the City in the short- and long-term.

5.5 Document the accepted solution.

KEY PROJECT MILESTONES

- Revised or new pay scale(s)
- Classification assignments by pay grade
- Implementation plan(s)
- Documented final solution



**Task 6.0
Develop and Submit
Draft and Final
Reports**

TASK GOALS

- Develop and submit a draft and final reports of the Classification and/or Compensation Study for the City of Doral.
- Present final report.

TASK ACTIVITIES

- 6.1 Produce a comprehensive draft report that captures the results of each previous step. The report will include any detailed costs associated with all recommendations as well as implementation strategies. The final report will also include final report includes recommendations on how to implement and handle internal/external candidates and at what percentage or the range they can be slotted.
- 6.2 Submit the comprehensive draft report to the CPM for review and approval.
- 6.3 Make edits and submit copies of the final report to the CPM.
- 6.4 Present the final report, if requested.
- 6.5 Develop a plan for maintaining recommendations over time.

KEY PROJECT MILESTONES

- Draft and final reports
- Final presentation
- Implementation and maintenance database

**Task 7.0
Develop
Recommendations
for Compensation
Administration**

TASK GOAL

- Develop recommendations for the continued administration by the City's staff to sustain the recommended compensation and classification structure.

TASK ACTIVITIES

- 7.1 Develop recommendations and guidelines for the continued administration and maintenance of the classification and compensation structure, including recommendations and guidelines related to:
 - how employees will move through the pay structure/system as a result of transfers, promotions, or demotions;
 - how to pay employees whose base pay has reached the maximum of their pay range or value of their position;
 - the proper mix of pay and benefits;



- how often to adjust pay scales and survey the market;
- the timing of implementation; and
- how to keep the system fair and competitive over time.

7.2 Recommend recruitment/retention strategies, where appropriate.

7.3 Finalize recommendations for the CPM.

KEY PROJECT MILESTONES

- Recommendations for compensation administration
- Recommendations for recruitment/retention poli

Cost and Timeline

Our total, not-to-exceed, fixed cost to complete all tasks in our detailed work plan is **\$29,500**. Our cost is all inclusive, and includes travel costs (meals and lodging), transportation, fringe benefits, indirect cost (overhead), clerical support, and all other out-of-pocket expenses. Evergreen can conduct this study in 90 days from the execution of a contract. Our cost includes one onsite visit to the City as most of the work can be conducted virtually.

Our preferred method of invoicing is as follows:

- 33% - upon completion of Tasks 1 - 2
- 33% - upon completion of Tasks 3 - 4
- 34% - upon completion of Tasks 5 - 7

We would love the opportunity to again work with the City of Doral. If you have any questions or need any additional information, please feel free to contact me at (850) 383-0111 or via email at jeff@consultevergreen.com.

Sincerely,



Jeffrey Ling, PhD
President
Evergreen Solutions, LLC



ENDORSEMENT NO:5

This endorsement, effective 12:01 am, 08/17/2023

forms part

of policy number 21 PG 0567622-23

issued to: EVERGREEN SOLUTIONS, LLC

by: TWIN CITY FIRE INSURANCE CO.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INSURED CLIENTS ENDORSEMENT – LIMITED CAPACITY (BLANKET)

This endorsement modifies insurance provided under:

THE HARTFORD PROFESSIONAL LIABILITY INSURANCE POLICYSM

SECTION I: SCOPE OF COVERAGE, B. DEFINITIONS, 10. "Insured", is amended to include:

Insured also means a client that the **Insured Entity** is required to add as an additional insured under this Policy pursuant to a written contract for the performance of **Professional Services** for such client; provided, however, that:

- a. such client shall only be covered for that portion of **Damages** and **Claims Expenses** incurred as a result of its vicarious and/or imputed liability for a **Wrongful Act** or **Personal Injury** committed by the **Insured Entity** in the **Insured Entity's** performance of **Professional Services** for that client;
- b. such written contract is entered into before the **Wrongful Act** or **Personal Injury** giving rise to the **Claim** at issue is committed; and
- c. there are no allegations of independent misconduct by the client.

All other terms and conditions remain unchanged.



Ross Fisher, President

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY INSURANCE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 08-17-2023	Policy Number: EBA 058 66 01
Named Insured: EVERGREEN SOLUTIONS LLC	
Countersigned by:	

(Authorized Representative)

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

1. Noncontributory Insurance

SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance is replaced by the following:

- c.** Regardless of the provisions of Paragraph **a.** above, this Coverage Form's Liability Coverage is primary and we will not seek contribution from any other insurance for any liability assumed under an "insured contract" that requires liability to be assumed on a primary noncontributory basis.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET WAIVER OF SUBROGATION - AUTO

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 08-17-2023	Policy Number: EBA 058 66 01
Named Insured: EVERGREEN SOLUTIONS LLC	
Countersigned by:	

(Authorized Representative)

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

1. Blanket Waiver of Subrogation

SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, 5. Transfer of Rights of Recovery Against Others to Us is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization because of

payments we make for "bodily injury" or "property damage" arising out of the operation of a covered "auto" when you have assumed liability for such "bodily injury" or "property damage" under an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the "insured contract".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED BY CONTRACT

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM**

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 08-17-2023	Policy Number: EBA 058 66 01
Named Insured: EVERGREEN SOLUTIONS LLC	
Countersigned by:	

(Authorized Representative)

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

SECTION II - LIABILITY COVERAGE, A. Coverage, I. Who is an Insured is amended to include as an insured any person or organization for whom you have agreed in a valid written contract to provide insurance as afforded by this policy.

This provision is limited to the scope of the valid written contract.

This provision does not apply unless the valid written contract has been executed prior to the "bodily injury" or "property damage".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**CONTRACTORS ADDITIONAL INSURED - AUTOMATIC STATUS
AND AUTOMATIC WAIVER OF SUBROGATION
WHEN REQUIRED IN WRITTEN CONTRACT, AGREEMENT,
PERMIT OR AUTHORIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Additional Insured - Owners, Lessees Or Contractors - Automatic Status For Other Parties When Required In Written Contract Or Agreement With You

1. Section II - Who Is An Insured is amended to include as an additional insured any person or organization you have agreed in writing in a contract or agreement to add as an additional insured on this Coverage Part. Such person(s) or organization(s) is an additional insured only with respect to liability for:

a. "Bodily injury", "property damage" or "personal and advertising injury" *caused, in whole or in part, by* the performance of your ongoing operations by you or on your behalf, under that written contract or written agreement. Ongoing operations does not apply to "bodily injury" or "property damage" occurring after:

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

b. "Bodily injury" or "property damage" *caused, in whole or in part, by* "your work" performed under that written contract or written agreement and in-

cluded in the "products-completed operations hazard", but only if:

- (1) The Coverage Part to which this endorsement is attached provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard"; and
- (2) The written contract or written agreement requires you to provide additional insured coverage included within the "products-completed operations hazard" for that person or organization.

If the written contract or written agreement requires you to provide additional insured coverage included within the "products-completed operations hazard" for a specified length of time for that person or organization, the "bodily injury" or "property damage" must occur prior to the expiration of that period of time in order for this insurance to apply.

If the written contract or written agreement requires you to provide additional insured coverage for a person or organization per only ISO additional insured endorsement form number **CG 20 10**, without specifying an edition date, and without specifically requiring additional insured coverage included within the "products-completed operations hazard", this Paragraph b. does not apply to that person or organization.

2. If the written contract or written agreement described in Paragraph 1. above specifically requires you to provide additional insured coverage to that person or organization:

a. *Arising out of* your ongoing operations or *arising out of* "your work"; or

- b. By way of an edition of an ISO additional insured endorsement that includes *arising out of* your ongoing operations or *arising out of* "your work";

then the phrase *caused, in whole or in part, by* in Paragraph **A.1.a.** and/or Paragraph **A.1.b.** above, whichever applies, is replaced by the phrase *arising out of*.

3. With respect to the insurance afforded to the additional insureds described in Paragraph **A.1.**, 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 architectural, engineering or surveying services, including:

- a. The preparing, approving or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

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

4. This Paragraph **A.** does not apply to additional insureds described in Paragraph **B.**

B. Additional Insured - State Or Governmental Agency Or Subdivision Or Political Subdivision - Automatic Status When Required In Written Permits Or Authorizations

1. **Section II - Who Is An Insured** is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision you have agreed in writing in a permit or authorization to add as an additional insured on this Coverage Part. Such state or governmental agency or subdivision or political subdivision is an additional insured only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued, in writing, a permit or authorization.

2. With respect to the insurance afforded to the additional insureds described in Paragraph **B.1.**, the following additional exclusions apply:

This insurance does not apply to:

- a. "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or
- b. "Bodily injury" or "property damage" included within the "products-completed operations hazard."

- C. The insurance afforded to additional insureds described in Paragraphs **A.** and **B.**:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the written contract, written agreement, written permit or written authorization to provide for such additional insured; and
3. Does not apply to any person, organization, state, governmental agency or subdivision or political subdivision specifically named as an additional insured for the same project in the schedule of an endorsement added to this Coverage Part.

- D. With respect to the insurance afforded to the additional insureds described in Paragraphs **A.** and **B.**, the following is added to **Section III - Limits Of Insurance**:

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract, written agreement, written permit or written authorization described in Paragraphs **A.** and **B.** For the purpose of determining the required amount of insurance only, we will include the minimum amount of any Umbrella Liability or Excess Liability coverage required for that additional insured in that written contract, written agreement, written permit or written authorization; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

- E. **Section IV - Commercial General Liability Conditions** is amended to add the following:

Automatic Additional Insured Provision

This insurance applies only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

1. During the policy period; and
2. Subsequent to your execution of the written contract or written agreement, or the issuance of a written permit or written authorization, described in Paragraphs **A.** and **B.**

F. Except when **G.** below applies, the following is added to **Section IV - Commercial General Liability Conditions, Other Insurance,** and supersedes any provision to the contrary:

When Other Additional Insured Coverage Applies On An Excess Basis

This insurance is primary to other insurance available to the additional insured described in Paragraphs **A.** and **B.** except:

1. As otherwise provided in **Section IV - Commercial General Liability Conditions, Other Insurance, b. Excess Insurance;** or
2. For any other valid and collectible insurance available to the additional insured as an additional insured on another insurance policy that is written on an excess basis. In such case, this insurance is also excess.

G. The following is added to **Section IV - Commercial General Liability Conditions, Other Insurance,** and supersedes any provision to the contrary:

Primary Insurance When Required By Written Contract, Agreement, Permit Or Authorization

Except when wrap-up insurance applies to the claim or "suit" on behalf of the additional insured, this insurance is primary to any other insurance available to the additional insured described in Paragraphs **A.** and **B.** provided that:

1. The additional insured is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract, agreement, permit or authorization de-

scribed in Paragraph **A.** or **B.** that this insurance would be primary to any other insurance available to the additional insured.

As used in this endorsement, wrap-up insurance means a centralized insurance program under which one party has secured either insurance or self-insurance covering some or all of the contractors or subcontractors performing work on one or more specific project(s).

Primary And Noncontributory Insurance When Required By Written Contract, Agreement, Permit Or Authorization

Except when wrap-up insurance applies to the claim or "suit" on behalf of the additional insured, this insurance is primary to and will not seek contribution from any other insurance available to the additional insured described in Paragraphs **A.** and **B.** provided that:

1. The additional insured is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract, agreement, permit or authorization described in Paragraph **A.** or **B.** that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

As used in this endorsement, wrap-up insurance means a centralized insurance program under which one party has secured either insurance or self-insurance covering some or all of the contractors or subcontractors performing work on one or more specific project(s).

H. **Section IV - Commercial General Liability Conditions, Transfer Of Rights Of Recovery Against Others To Us** is amended by the addition of the following:

Waiver of Subrogation

We waive any right of recovery against any additional insured under this endorsement, because of any payment we make under this endorsement, to whom the insured has waived its right of recovery in a written contract, written agreement, written permit or written authorization. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such additional insured prior to loss.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**COMMERCIAL GENERAL LIABILITY BROADENED
ENDORSEMENT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Endorsement - Table of Contents:

<u>Coverage:</u>	<u>Begins on Page:</u>
1. Employee Benefit Liability Coverage.....	2
2. Unintentional Failure To Disclose Hazards.....	8
3. Damage To Premises Rented To You.....	8
4. Supplementary Payments.....	9
5. Medical Payments.....	9
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7. Waiver Of Subrogation.....	10
8. Automatic Additional Insured - Specified Relationships:.....	10
(a) Managers Or Lessors Of Premises	
(b) Lessor Of Leased Equipment	
(c) Vendors	
(d) State Or Governmental Agency Or Subdivision Or Political Subdivision - Permits Or Authorizations Relating To Premises	
(e) Mortgagee, Assignee Or Receiver	
9. Property Damage To Borrowed Equipment.....	13
10. Employees As Insureds - Specified Health Care Services And Good Samaritan Services.....	14
11. Broadened Notice Of Occurrence.....	14
12. Nonowned Aircraft.....	14
13. Bodily Injury Redefined.....	14
14. Expected Or Intended Injury Redefined.....	14
15. Former Employees As Insureds.....	14

B. Limits Of Insurance:

The Commercial General Liability Limits of Insurance apply to the insurance provided by this endorsement, except as provided below:

1. Employee Benefit Liability Coverage

Each Employee Limit: \$1,000,000
Aggregate Limit: \$3,000,000
Deductible Amount: \$ 1,000

3. Damage To Premises Rented To You

The lesser of:

- a. The Each Occurrence Limit shown in the Declarations; or
- b. \$500,000 unless otherwise stated \$ _____

4. Supplementary Payments

- a. Bail Bonds: \$2,500
- b. Loss Of Earnings: \$ 500

5. Medical Payments

Medical Expense Limit: \$10,000

9. Property Damage To Borrowed Equipment

Includes copyrighted material of Insurance
Services Office, Inc., with its permission.

Each Occurrence Limit: \$10,000
Deductible Amount: \$ 250

C. Coverages

1. Employee Benefit Liability Coverage

a. The following is added to **Section I - Coverages**:

EMPLOYEE BENEFIT LIABILITY COVERAGE

(1) Insuring Agreement

(a) We will pay those sums that the insured becomes legally obligated to pay as damages caused by any act, error or omission of the insured, or of any other person for whose acts the insured is legally liable, 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 against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any claim or "suit" that may result. But:

- 1) The amount we will pay for damages is limited as described in **C. Coverages, 1. Employee Benefit Liability Coverage, c. Limits Of Insurance** of this endorsement; and
- 2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

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

(b) This insurance applies to damages only if the act, error or omission is negligently committed in the "administration" of your "employee benefit program"; and

1) Occurs during the policy period; or

2) Occurred prior to the "first effective date" of this endorsement provided:

a) You did not have knowledge of a claim or "suit" on or before the "first effective date" of this endorsement.

You will be deemed to have knowledge of a claim or "suit" when any insured listed under **C. Coverages, 1. Employee Benefit Liability Coverage, b. Who Is An Insured, (1)** of this endorsement or any "employee" authorized by you to give or receive notice of a claim or "suit":

- i) Reports all, or any part, of the act, error or omission to us or any other insurer;
- ii) Receives a written or verbal demand or claim for damages because of the act, error or omission; and

b) There is no other applicable insurance.

(2) Exclusions

This insurance does not apply to:

(a) Bodily Injury, Property Damage Or Personal And Advertising Injury

"Bodily injury", "property damage" or "personal and advertising injury".

(b) Dishonest, Fraudulent, Criminal Or Malicious Act

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

(c) Failure To Perform A Contract

Damages arising out of failure of performance of contract by any insurer.

(d) Insufficiency Of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program".

(e) Inadequacy Of Performance Of Investment/Advice Given With Respect To Participation

Any claim based upon:

- 1) Failure of any investment to perform;
- 2) Errors in providing information on past performance of investment vehicles; or
- 3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the "employee benefit program".

(f) Workers' Compensation And Similar Laws

Any claim arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

(g) ERISA

Damages for which any insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security

Act of 1974, as now or hereafter amended, or by any similar federal, state or local laws.

(h) Available Benefits

Any claim for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

(i) Taxes, Fines Or Penalties

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

(j) Employment-Related Practices

Any liability arising out of any:

- 1) Refusal to employ;
- 2) Termination of employment;
- 3) Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, acts or omissions; or
- 4) Consequential liability as a result of 1), 2) or 3) above.

This exclusion applies whether the insured may be held liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

(3) Supplementary Payments

Section I - Supplementary Payments - Coverages A and B also apply to this Coverage, however 1.b. and 2. of the Supplementary Payments provision do not apply.

b. Who Is An Insured

As respects Employee Benefit Liability Coverage, **Section II - Who Is An Insured** is replaced by the following:

- (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) Each of your "employees" who is or was authorized to administer your "employee benefit program";
 - (b) Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed; or

- (c) 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 Coverage Part.

- (3) Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if no other similar insurance applies to that organization. However, coverage under this provision:
 - (a) 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) Does not apply to any act, error or omission that was committed before you acquired or formed the organization.

c. Limits Of Insurance

As respects Employee Benefit Liability Coverage, **Section III - Limits Of Insurance** is replaced by the following:

- (1) The Limits of Insurance shown in Section B. Limits Of Insurance, 1. Employee Benefit Liability Coverage of this endorsement and the rules below fix the most we will pay regardless of the number of:
 - (a) Insureds;
 - (b) Claims made or "suits" brought;
 - (c) Persons or organizations making claims or bringing "suits";
 - (d) Acts, errors or omissions; or
 - (e) Benefits included in your "employee benefit program".
- (2) The Aggregate Limit shown in Section B. Limits Of Insurance, 1. Employee Benefit Liability Coverage of this endorsement is the most we will pay for all damages because of acts, errors or omissions negligently committed

in the "administration" of your "employee benefit program".

- (3) Subject to the limit described in (2) above, the Each Employee Limit shown in Section B, Limits Of Insurance, 1. Employee Benefit Liability Coverage of this endorsement is the most we will pay for all damages sustained by any one "employee", including damages sustained by such "employee's" dependents and beneficiaries, as a result of:

- (a) An act, error or omission; or
- (b) A series of related acts, errors or omissions, regardless of the amount of time that lapses between such acts, errors or omissions;

negligently committed in the "administration" of your "employee benefit program".

However, the amount paid under this endorsement shall not exceed, and will be subject to the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program."

(4) Deductible Amount

- (a) Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the Deductible Amount shown in Section B, Limits Of Insurance, 1. Employee Benefit Liability Coverage of this endorsement as applicable to Each Employee. The limits of insurance shall not be reduced by the amount of this deductible.
- (b) The Deductible Amount shown in Section B, Limits Of Insurance, 1. Employee Benefit Liability Coverage of this endorsement applies to all damages sustained by any one "employee", including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.

- (c) The terms of this insurance, including those with respect to:

- 1) Our right and duty to defend the insured against any "suits" seeking those damages; and
- 2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or claim;

apply irrespective of the application of the Deductible Amount.

- (d) We may pay any part or all of the Deductible Amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the Deductible Amount as we have paid.

d. Additional Conditions

As respects Employee Benefit Liability Coverage, Section IV - Commercial General Liability Conditions is amended as follows:

- (1) Item 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit is replaced by the following:

2. Duties In The Event Of An Act, Error, Omission, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a claim. To the extent possible, notice should include:
 - (1) What the act, error or omission was and when it occurred; and
 - (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

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

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

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

c. 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 or 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 which may be liable to the insured because of an act, error or omission to which this insurance may also apply.

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

(2) Item 4. Other Insurance is replaced by the following:

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Employee Benefit Liability Coverage, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when c. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph b. below.

b. Method Of Sharing

If all of 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.

c. No Coverage

This insurance shall not cover any loss for which the insured is entitled to recovery under any other insurance in force previous to the effective date of this Employee Benefit Liability Coverage.

e. Additional Definitions

As respects Employee Benefit Liability Coverage, **Section V - Definitions** is amended as follows:

(1) The following definitions are added:

1. "Administration" means:

- a. Providing information to "employees", including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";
- b. Interpreting the "employee benefit programs";
- c. Handling records in connection with the "employee benefit programs"; or
- d. Effecting, continuing or terminating any "employee's" participation in any benefit included in the "employee benefit program".

However, "administration" does not include:

- a. Handling payroll deductions; or
 - b. The failure to effect or maintain any insurance or adequate limits of coverage of insurance, including but not limited to unemployment insurance, social security benefits, workers' compensation and disability benefits.
2. "Cafeteria plans" means plans authorized by applicable law to allow "employees" to elect to pay for certain benefits with pre-tax dollars.
3. "Employee benefit programs" means a program providing some or all of the following benefits to "employees", whether provided through a "cafeteria plan" or otherwise:
- a. Group life insurance; group accident or health insurance; dental, vision

and hearing plans; and flexible spending accounts; provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;

- b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible under the plan for such benefits;

c. Unemployment insurance, social security benefits, workers' compensation and disability benefits; and

d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies.

4. "First effective date" means the date upon which coverage was first effected in a series of uninterrupted renewals of insurance coverage.

(2) The following definitions are deleted in their entirety and replaced by the following:

5. "Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

18. "Suit" means a civil proceeding in which money damages because of an act, error or omission 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;
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent; or
- c. An appeal of a civil proceeding.

2. Unintentional Failure To Disclose Hazards

Section IV - Commercial General Liability Conditions, 6. Representations is amended by the addition of the following:

Based on our dependence upon your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not reject coverage under this Coverage Part based solely on such failure.

3. Damage To Premises Rented To You

a. The last paragraph of **2. Exclusions** under **Section I - Coverage A - Bodily Injury And Property Damage Liability** is replaced by the following:

Exclusions **c.** through **n.** do not apply to damage by fire, explosion, lightning, smoke or soot to premises while rented to you or temporarily occupied by you with permission of the owner, for which the amount we will pay is limited to the Damage To Premises Rented To You Limit as described in **Section III - Limits Of Insurance.**

b. The insurance provided under **Section I - Coverage A - Bodily Injury And Property Damage Liability** applies to "property damage" arising out of water damage to premises that are both rented to and occupied by you.

As respects Water Damage Legal Liability, as provided in Paragraph **3.b.** above:

The exclusions under **Section I - Coverage A - Bodily Injury And Property Damage Liability, 2. Exclusions,** other than **i.** War and the Nuclear Energy Liability Exclusion (Broad Form), are deleted and the following are added:

This insurance does not apply to:

- (a) "Property damage":
 - (i) Assumed in any contract or agreement; or
 - (ii) Caused by or resulting from any of the following:
 - 1) Wear and tear;
 - 2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
 - 3) Smog;
 - 4) Mechanical breakdown, including rupture or bursting caused by centrifugal force;
 - 5) Settling, cracking, shrinking or expansion;
 - 6) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals; or
 - 7) Presence, growth, proliferation, spread or any activity of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
- (b) "Property damage" caused directly or indirectly by any of the following:
 - (i) Earthquake, volcanic eruption, landslide or any other earth movement;
 - (ii) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;

- (iii) Water under the ground surface pressing on, or flowing or seeping through:
 - 1) Foundations, walls, floors or paved surfaces;
 - 2) Basements, whether paved or not; or
 - 3) Doors, windows or other openings.
 - (c) "Property damage" caused by or resulting from water that leaks or flows from plumbing, heating, air conditioning, fire protection systems, or other equipment, caused by or resulting from freezing, unless:
 - (i) You did your best to maintain heat in the building or structure; or
 - (ii) You drained the equipment and shut off the water supply if the heat was not maintained.
 - (d) "Property damage" to:
 - (i) Plumbing, heating, air conditioning, fire protection systems, or other equipment or appliances; or
 - (ii) The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet or ice, whether driven by wind or not.
- a. While rented to you, or temporarily occupied by you with permission of the owner;
 - b. In the case of damage by fire, explosion, lightning, smoke or soot, while rented to you; or
 - c. In the case of damage by water, while rented to and occupied by you.
- (2) The most we will pay is limited as described in Section B. Limits Of Insurance, 3. Damage To Premises Rented To You of this endorsement.

4. Supplementary Payments

Under Section I - Supplementary Payments - Coverages A and B:

- a. Paragraph 1.b. is replaced by the following:

Up to the limit shown in Section B. Limits Of Insurance, 4.a. Bail Bonds of this endorsement for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

- b. Paragraph 1.d. is replaced by the following:

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 the limit shown in Section B. Limits Of Insurance, 4.b. Loss Of Earnings of this endorsement per day because of time off from work.

5. Medical Payments

The Medical Expense Limit of Any One Person as shown in the Declarations is amended to the limit shown in Section B. Limits Of Insurance, 5. Medical Payments of this endorsement.

6. 180 Day Coverage For Newly Formed Or Acquired Organizations

Section II - Who Is An Insured is amended as follows:

Subparagraph a. of Paragraph 3. is replaced by the following:

c. Limit Of Insurance

With respect to the insurance afforded in Paragraphs 3.a. and 3.b. above, the Damage To Premises Rented To You Limit as shown in the Declarations is amended as follows:

- (1) Paragraph 6. of Section III - Limits Of Insurance is replaced by the following:
 - 6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A - Bodily Injury And Property Damage Liability for damages because of "property damage" to any one premises:

- 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;

7. Waiver Of Subrogation

Section IV - Commercial General Liability Conditions, 8. Transfer Of Rights Of Recovery Against Others To Us is amended by the addition of the following:

We waive any right of recovery against any additional insured under this endorsement, because of any payment we make under this endorsement, to whom the insured has waived its right of recovery in a written contract, written agreement, written permit or written authorization. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such additional insured prior to loss.

8. Automatic Additional Insured - Specified Relationships

- a. The following is added to **Section II - Who Is An Insured**:

- (1) Any person(s) or organization(s) described in Paragraph **8.a.(2)** of this endorsement (hereinafter referred to as additional insured) whom you are required to add as an additional insured under this Coverage Part by reason of a written contract, written agreement, written permit or written authorization.

- (2) Only the following persons or organizations are additional insureds under this endorsement, and insurance coverage provided to such additional insureds is limited as provided herein:

- (a) **Managers Or Lessors Of Premises**

The manager or lessor of a premises leased to you you are required per Paragraph **8.a.(1)** of this endorsement to provide insurance, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by you or those acting on your behalf in connection with the ownership, maintenance or use of that part of the premises

leased to you, subject to the following additional exclusions:

This insurance does not apply to:

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

- (b) **Lessor Of Leased Equipment**

Any person(s) or organization(s) from whom you lease equipment you are required per Paragraph **8.a.(1)** of this endorsement to provide insurance. Such person(s) or organization(s) are insureds 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). A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends. However, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

- (c) **Vendors**

Any person or organization (referred to below as vendor) you are required per Paragraph **8.a.(1)** of this endorsement to provide insurance, but only with respect to liability for "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions: